

Approved: March 2, 2000
Date

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on February 22, 2000 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Kansas Legislative Research Department
Norman Furse, Revisor of Statute's Office
June Evans, Secretary

Conferees appearing before the committee: Representative Joann Freeborn
Debbie Jones, Liberal
Dr. Gail Hanson, public health veterinarian, KDHE
Sarah Holbert, CEO, CARES, Inc.
Pam Rusk, Guide Dog Users of Kansas
Michael Byington, Director, Envision Governmental Affairs
Representative Gerry Ray
Mark deBarnarbo, Institute for Drug Free Work Place,
Washington, D.C.
Brian Heatwole, e-Screen
Dr. Roger Carlson, Director of H&E Laboratories
Leon Moeder, The Infinity Group, Inc., Wichita
Bill Combs, Via Christi
Mike Helbert, Kansas Trial Lawyers Association

Others Attending: See Attached Sheet

The Chairperson announced there was much to be done today so please try to paraphrase your testimony rather than reading it. Hand signals will be given to give an idea of just how much time you have before getting the gavel.

The Chairperson stated final action would be taken on **HB 2814 - Establishing a Senior Pharmacy Assistance Program.**

Representative Mayans reviewed some amendments to **HB 2814**. The Governor said some interest from the senior trust fund could be used for this purpose, we talked to people of SRS, Aging, Governor's Office, Representative Glasscock and discussed how much money would be available. When originally introduced went over how much money that would take and how much money available and tried to work them backwards and since have X amount of dollars, how can we make this program work with that amount of money the first year. As we all know, the most difficult job under this dome is passing the legislation. Once we have the legislation on the books, it is much easier to go back and refine in the 2nd and 3rd year and if need more money, can make adjustments. I recognize, too, the minority party has a bill introduction in this area and have some excellent ideas and wanted to incorporate some of their ideas in this because can not pass this legislation without their help and they also care very much about seniors and they are very much involved with us in these concerns so want to incorporate some of their ideas. One of the changes is moving the administration to the Department of Aging. After talking to the AAAs, they were really enthused about this program and they do work with the SCHICK program and program similar to this so that is where it should be. Most of the 16 states that have a similar program does use the Department of Aging. I thought about the Department of Aging originally but there is a new Secretary there and didn't want to burden her with that responsibility. The Department of Aging has many advantages. They certainly can do a lot of outreach for the seniors. To make things work, really agonized over this but had to move the age to 67 rather than 65 in the year 2003. Most states have age 65 and up. One state has 65 and up and 25 and up on disabilities, but most states have 65 and up, so we will be a little unusual in that matter but only for 2 years. That will make the fiscal note work. We keep the \$14,000 per

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individual which was a real dog fight. There were different ideas on that amount of money but the ones supportive of the bill did not want to see that number get down below \$14,000 and \$16,000 per household. Eligible individuals must not qualify for any other local, state or federal prescription drug program. We don't want anyone that has insurance or other assistance to be able to qualify for this, that is not the intent. Most of the states have a deductible and a co-payment. I originally simplified things to have just the co-pay and it came to my attention to make it work, and the minority party had that in their bill, and that is something that is workable so there is a 30% co-pay with each prescription. That is a good idea because someone could pay \$12.00 for a year's supply. On page 2 wanted to specify that comes from the senior services trust fund. In Section 2 described the need for the Secretary of Aging's authorization by Rules and Regs to implement this and also implement the restrictive drug formulary. That would be a way to protect the program from escalating costs in its initial stages.

Representative Light asked what the senior services trust fund was and Representative Mayans replied this will be part of the interest accumulated from the \$100M trust fund, not taking any money from the principal, but from the interest of that \$100M.

Representative Light asked what the fiscal note would be and Representative Mayans stated money would be available from the interest, but not sure how much it would cost. We can fund it.

Staff asked if it would be considered to require the Secretary of Aging to contract with the Secretary of SRS to handle the fiscal part of this because SRS already has contracts with pharmacists and the billing and payment system is set up with SRS?

Representative Mayans said certainly – Section 2. (a) would take care of that.

Representative Wells stated the last line should be turned around to read, “the program must not be less than 65 years of age.”

Representative Henry said he hoped the Committee adopted this amendment and move along, but as working through this, and when talking to the Governor, the announcement was that close to \$60M or \$70M a year would be going into this trust fund and last week at the hearing thought the age 65 could be accomplished with about \$4M to \$5M, and hope you work with us and skim a little off the principal and get this thing to 65 as soon as possible and accelerate that by using a bit of the principal and this could be up to \$200M in two or three years and think could go with what you stated last week and get this thing moving for people 65 and older.

Representative Mayans stated he thought there would be more monies available.

Representative Henry moved and Representative Long seconded to adopt the balloon on **HB 2814**. The motion carried.

Representative Mayans said an additional amendment was needed on page 1, lines 34 thru 36 strike, “the cost reimbursement to the pharmacy shall be the average wholesale price, minus 10%, or the usual and customary cost, whichever is lower.”

Representative Geringer moved and Representative Long seconded to strike “the cost reimbursement to the pharmacy shall be the average wholesale price, minus 10%, or the usual and customary cost, whichever is lower.” The motion carried.

Representative Henry moved and Representative Bethell seconded to add “Must be” on the first line before “67” and on the last line remove “not less than 65 years of age” and replace with “be 65 years of age or over.” The motion carried.

Representative Long moved and Representative Bethell seconded to move **HB 2814** out as amended. The motion carried.

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The Chairperson said the Committee would turn to **HB 2755 - Prohibitions and restrictions on disclosure of certain information by the department of health and environment.**

Representative Storm moved and Representative Bethell seconded to remove HB 2755 from the Table. The motion carried.

Staff explained the balloon to **HB 2755.**

Representative Storm moved and Representative Wells seconded to accept the balloon to HB 2755. The motion carried. (See Attachment #1).

Representative Storm moved and Representative Showalter seconded to move HB 2755 out as amended. The motion carried.

The Chairperson opened the hearing on **HB 2924- Public access for service animals.**

Representative Joann Freeborn, testified in support of **HB 2924** as it is important to those whom it affects. The number of persons directly affected by allowing such assistance therapy dogs is not large. A change in statute is needed for these persons who need public access for their trained dogs. It expands the law to include those who are mentally or emotionally disabled or who are suffering a hidden disability.

Representative Freeborn presented a balloon amendment that strikes the word "animal" and brings it back to "dog" only. This bill also directs the Secretary of Health and Environment to adopt rules and regulations necessary to implement the access provisions among which include a tag or permit showing the animal is actually trained for the purpose of providing service to those needing assistance. Such persons must have a medically proven need (See Attachments #2 & 3).

Debbie Jones, a proponent to **HB 2924** stated she was involved in an accident and has had panic attacks since. Ms. Jones has a therapy dog which underwent personal training and provides emotional support (See Attachment #4).

Sara Holbert, CEO, CARES, Inc., testified as a proponent to **HB 2924**, stating CARES has been placing assistance dogs since 1994. A total of 145 assistance dogs in 19 different states have been placed (See Attachment #5).

Dr. Gail Hansen, public health veterinarian for Kansas, stated the Kansas Department of Health and Environment recommends amending **HB 2924** to require current rabies vaccination and rabies tag for all service animals for which there is a licensed rabies vaccine (See Attachment #6).

Pam Rusk, Guide Dog Users of Kansas, was in opposition of **HB 2924**, stating her guide dog was very important to her life and living independently, but knows at the same time how hard we have both had to work and certifications and processes we have had to go through. These rights are not to be taken lightly, it is hard work maintaining a guide or assistance dog allowing the kind of public access we have. People in Kansas have worked for approximately 65 years to get and improve guide dog access laws. If laws were thrown open to cover dogs with less training and dogs that have frequently misbehaved in public or injured others, or caused frequent property damage, we that have worked so hard for dog access rights will lose those rights along with the new folks that have caused the problem.

Michael Byington, Director, Envision Governmental Affairs Office, testified as an opponent to **HB 2924**, stated they did not train guide dogs, but do assessments for any or all of the guide dog training schools with regard to the qualifications and readiness of blind prospective guide dog users in Kansas. They also provide follow-up orientation and mobility training for blind people and their new guide dogs who have just recently been paired and returned to their home towns and neighborhoods from one of the guide dog training facilities. From these standpoints, we know what it takes to have an appropriately trained,

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controlled, and handled assistance dog who has, by virtue of the training process, earned the right to utilize the high degree of public access afforded by K.S.A. 39-1101 et seq. It is suggested that the issue of assistance dog and animal credentialing and certification in Kansas be referred for interim study. In this context, time and research can be focused to arriving at more certain and workable solutions to an increasing problem in definitional law (See Attachment #7).

The Chairperson closed the hearing on **HB 2924** and asked what the Committee's wishes were.

Representative Merrick moved and Representative Flaharty seconded to accept balloon presented by Representative Freeborn. The motion failed.

Representative Storm stated it was the amendment that she had trouble with.

Representative Geringer moved and Representative Light seconded a Substitute Motion to recommend placing **HB 2924** in a summer interim study. The motion carried.

The Chairperson opened the hearing on **HB 2758 - On-site drug tests exempted from requirement of being an approved library.**

Representative Gerry Ray testified in support of **HB 2758**, stating this bill allows preliminary drug testing with some new products that are being developed. It is totally preliminary. If anything comes up positive it then goes on to a laboratory. The changes on the second page of the balloon provides that the rules and regulations that are set by the state will not exceed the requirements of the federal guidelines and the other one that is being removed is on lines 12 and 13 because that was rather vague and wanted to identify what an adverse action was going to be (See Attachment #8).

Mark A. deBernardo, Executive Director, Institute for a drug-free workplace, Washington, D.C., a proponent to **HB 2758**, stated the single most important point is that the American employer community wants and needs the option of on-site drug testing. On-site drug testing is a common (and getting more and more common), effective, appropriate, and necessary tool in addressing - and preventing - employee substance abuse, and thereby substantially contributes to the protection of employees, the public at large, and the environment from the risks posed by impaired workers in safety-sensitive positions (See Attachment #9).

Brian Heatwole, eScreen, Inc., a proponent to **HB 2758**, stated eScreen serves Wal Mart, Target, Sears and Sprint. The purpose of eScreen system is a clinic based computer-operated forensic drug screening system. The purpose is to find negative urine drug screen results during the point-of-collection, and to report results immediately to the employer. The system ensures accuracy, security, confidentiality and ease of operation for the clinic, at the same time delivering negative results in minutes as opposed to days (See Attachment #10).

Roger Carlson, Kansas Department of Health and Environment testified as an opponent to **HB 2758**, stating Kansas does not have state laboratory licensure laws to ensure the quality of the millions of clinical tests performed on materials from the human body in hospitals, clinics, and physician office laboratories. The bill under consideration would remove urine drug tests from the current regulatory requirements and permit the use of drug screening tests performed without laboratory proficiency monitoring, the use of controls at or near the assay cutoff, or analyst personnel requirements (See Attachment #11).

Leon Moeder, President of The Infinity Group Labs, Inc., testified in opposition to **HB 2758**, stating toxicology and drug testing are extremely complex fields and the interpretation of testing results in this area should not be left to the under trained. The certification process should be designed to ensure that testing procedures are properly carried out, and that mistakes are kept to a minimum. Allowing non-certified operators to run drug screens will dramatically increase the number of mistakes. Unfortunately, nobody will hear about most of those mistakes, since there is no certifying agency to oversee the process (See Attachment #12).

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Bill Combs, Technical Manager, Via Christi Regional Labs, Wichita, testified as an opponent to **HB 2758**, stating laboratories who perform employment related drug of abuse testing are required to be certified by KDHE. Certified Laboratories are required to employ, for employment related drug testing, only technicians with a college degree in a laboratory related science. How can you now allow employers with no lab experience to perform testing? (See Attachment #13)

Michael Helbert, appearing on behalf of the Kansas Trial Lawyers Association, testified in opposition to **HB 2758** stating the strength of our nation lies with the individual and that each person's dignity, freedom, ability and responsibility must be honored. This bill would allow virtually on demand tests by any employer at any time for any reason or no reason at all on an employee. The potential for abuse is immense and obvious. In an age where matters of individual privacy are of utmost concern to our citizens, such a blanket authorization to conduct such unrestricted intrusions on our personal freedom should not be condoned. The present statute, as it exists, provides safeguards. This would remove those safeguards (See Attachment #14).

The Chairman said time had expired and would not have time to work the bill and closed the hearing on **HB 2758**.

Representative Storm moved and Representative Lightner seconded approval of the minutes of February 10, 16 and 17. The motion carried.

The following written testimony was distributed: Suzanne Shugart (Attachment #15), Susan Grace, PT (Attachment #16), Ann Byington, Education Chair, Kansas Association for the Blind and Visually Impaired, Inc. (Attachment #17), Brad & Kristy Shrader (Attachment #18), William F. Acree, Exec. Director/Pres. (Attachment #19), Greg Capps, Toxicology Marketing Director (Attachment #20), Jo Ann Pottorff (Attachment #21), Lawrence T. Buening, Jr. (Attachment #22) Mark S. Synovec (Attachment #23), Brad Smoot, Legislative Counsel for Hoffmann-LaRoche, Inc., (Attachment #24), Terry Leatherman, Kansas Chamber of Commerce and Industry, (Attachment #25).

The meeting adjourned at 3:15 p.m. and the next meeting will be March 2.

HEALTH AND HUMAN SERVICES

DATE February 27, 2008

NAME	REPRESENTING
Leon Moeder	The Infinity Group Ltd
Larry Hinton	SRS
ALAN E. DAVIS	LAB ONE INC.
Ches Ross-Baze	KDHE
Stephan N. Puzi	KDHE
Chip Wheelen	Osteopathic Assn
Mary Ellen Orlee	Via Christi
Bill Combs	Via Christi
Karen Braman	SRS
Lana Howard	SRS
Bulah Carrington	Topeka Assn of Visually Impaired for Services.
Michael Byington	Envision
Pam Busk	Guide Dog Users of Ks.
Dennis Jackson	TIIR
Stanley P. Sutton	KDHE Lab Improvement
Michael Moser	KDHE
Rick Pittman	Heatha Midwest
Harrie Ann Lower	KATHD
Rebecca Rice	KCA & KANA
Chris Collins	Kansas Medical Society
Marla Rhoden	KDHE
Terry Lentz	KCCI

HHS
2-22-2000
Atch #1

HOUSE BILL No. 2755

By Committee on Health and Human Services

1-31

9 AN ACT concerning the department of health and environment; disclo-
10 sure of certain information in possession thereof; prohibitions and re-
11 strictions on disclosure; amending K.S.A. 1999 Supp. 65-506 and 65-
12 525 and repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 1999 Supp. 65-506 is hereby amended to read as
16 follows: 65-506. The secretary of health and environment shall serve no-
17 tice of the issuance, suspension or revocation of a license to conduct a
18 maternity center or child care facility or the issuance, suspension or rev-
19 ocation of a certificate of registration for a family day care home to the
20 secretary of social and rehabilitation services, ~~to the juvenile justice au-~~
21 *thority, department of education, office of the state fire marshal, county,*
22 *city-county or multi-county department of health, and to any licensed*
23 *child placement agency or licensed child care resource and referral agency*
24 *serving the area where the center or facility is located. Neither the sec-*
25 *retary of social and rehabilitation services nor any other person shall place*
26 *or cause to be placed any maternity patient or child under 16 years of*
27 *age in any maternity center or child care facility not licensed by the sec-*
28 *retary of health and environment or family day care home not holding a*
29 *certificate of registration from the secretary of health and environment.*

30 Sec. 2. K.S.A. 1999 Supp. 65-525 is hereby amended to read as fol-
31 lows: 65-525. ~~Except as otherwise provided in K.S.A. 1999 Supp. 65-531~~
32 ~~and amendments thereto, information received by the licensing agency~~
33 ~~through filed reports, inspections or otherwise authorized under K.S.A.~~
34 ~~65-501 to 65-522, inclusive, and amendments thereto shall not be dis-~~
35 ~~closed publicly in such manner as to identify individuals (a) Information~~
36 ~~in the possession of the department of health and environment that iden-~~
37 ~~tifies individuals, except for individuals operating a child care facility or~~
38 ~~a family day care home, shall not be released publicly, unless required by~~
39 ~~law.~~

40 (b) ~~An individual applying for or renewing a license or certificate of~~
41 ~~registration to operate a day care home or family foster home may request~~
42 ~~in writing that the department of health and environment not disclose~~
43 ~~publicly received information of the individual including street address~~

received pursuant to K.S.A. 65-501 et seq.
regarding child care facilities, maternity
centers or family day care homes shall not be
released publicly in a manner that would identify
individuals, unless required by law

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1 ~~and telephone number. If the department receives written notice, the per-~~
2 ~~sonal information of an individual licensed or registered to operate a day~~
3 ~~care home or family foster home shall not be released publicly, unless~~
4 ~~required by law or if the information is contained in an order as defined~~
5 ~~in subsection (d) of K.S.A. 77-502, and amendments thereto.~~

The name, address and telephone number of a child care facility, maternity center or family day care home shall not be released publicly unless required by law

6 (c) Information that cannot be released by subsection (a) or (b) may
7 be released to: (1) An agency or organization authorized to receive notice
8 under K.S.A. 65-506, and amendments thereto; (2) a criminal justice
9 agency; (3) any state or federal agency that ~~regulates child care~~ or pro-
10 vides child protective services; (4) an organization of persons who are
11 licensed or registered child care providers for membership, informational
12 or other purposes related to child care, or (5) an organization providing
13 professional or vocational training or education for the sole purpose of
14 providing individuals with training or education required by regulation.

provides child care services

any federal agency for the purposes of compliance with federal funding requirements;

15 Any state or federal agency receiving information under subsection (a) or
16 (b) shall not disseminate the information without the consent of the ~~in-~~
17 ~~dividual~~ unless required by law ~~the information is directly related to the~~
18 ~~administration of the agency's program or if the information is contained~~
19 ~~in an order as defined in subsection (d) of K.S.A. 77-502, and amendments~~
20 ~~thereto. Any person, other than a state or federal agency, receiving infor-~~
21 ~~mation under subsection (a) or (b) shall not disseminate the information~~
22 ~~without the consent of the individual unless required by law or if the~~
23 ~~information is contained in an order as defined in subsection (d) of K.S.A.~~
24 ~~77-502, and amendments thereto.~~

(d)

person whose information will be disseminated

25 ~~(d)~~ In any hearings conducted under the licensing or regulation pro-
26 visions of K.S.A. 65-501 ~~to 65-522, inclusive,~~ and amendments thereto,
27 the hearing officer may close the hearing to the public to prevent public
28 disclosure of matters relating to ~~individuals~~ restricted by other laws.

et seq.

29 Sec. 3. K.S.A. 1999 Supp. 65-506 and 65-525 are hereby repealed.
30 Sec. 4. This act shall take effect and be in force from and after its
31 publication in the statute book.

persons

or

STATE OF KANSAS

JOANN LEE FREEBORN
REPRESENTATIVE, 107TH DISTRICT
CLOUD, OTTAWA COUNTIES
AND PART OF CLAY AND DICKINSON COUNTIES
RR 3, BOX 307
CONCORDIA, KANSAS 66901-9105
785-446-3675



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIR: ENVIRONMENT
MEMBER: AGRICULTURE
FEDERAL AND STATE AFFAIRS

STATE CAPITOL RM 155-E
TOPEKA, KS 66612-1504
785-296-7645
1-800-432-3924

February 22, 2000

Re: House Bill 2924

Testimony for House Health and Human Services Committee

To: Chairman Boston and Committee members

Thank you very much for the hearing on HB2924 as it is so important to those whom it affects. The number of persons directly affected by allowing such assistance therapy dogs is not large. A change in statute is needed for these persons who need public access for their trained dogs. It expands the law to include those who are mentally or emotionally disabled or who are suffering a hidden disability. This is defined in New Section 1 (a).

I am passing out a rather lengthy balloon amendment to the bill. This would, if adopted, strike the language "animal" and brings it back to "dog" only. After the printing of the original bill, I came to realize that at this time the issue needs to be kept limited to just dog with the hopes it would avoid possible intensive controversy and thereby lack of support.

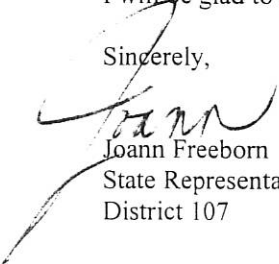
I first became aware of the need for therapy assistance dogs when a dog was made available to a young girl who suffered epileptic seizures. The dog was trained to notify the parents or nearby responsible adults when the girl needed help to ward off a seizure and if not in time for that, to at least bring immediate notice to her health care needs. I was greatly impressed by the training of the dog and the very capable persons who trained the animal. Since then other examples of therapy assistance dog use have been brought to my attention.

This balloon Section 1 (e) defines a "Therapy dog" for the purpose of licensed or certified professional persons use in practice. This can be in a school or a rest home or in private practice. There are other examples that are sure to be presented during testimony.

This bill also directs the Secretary of Health and Environment to adopt rules and regulations necessary to implement the access provisions among which include a tag or permit showing the animal is actually trained for the purpose of providing service to those needing assistance. Such persons must have a medically proven need.

I will be glad to take questions at the appropriate time.

Sincerely,


Joann Freeborn
State Representative
District 107

HeHS
2-22-2000
Atch #2

HOUSE BILL No. 2924

By Representatives Freeborn, Allen, Compton, Faber, Farmer, Flower,
Garner, Humerickhouse, Hutchins, Johnson, Phill Kline, P. Long,
Mays, Merrick, Neufeld, Powell, Tanner and Wagle

11 AN ACT concerning disabled persons; regarding the use of specially
12 trained ~~animals~~ amending K.S.A. 39-1101, 39-1102, 39-1103, 39-1105, dogs
13 39-1107, 39-1108 and 39-1109 and repealing the existing sections.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 *New Section 1. As used in this act:*

17 (a) "Disability" or "disabled" means any physical, mental, emotional
18 or other hidden condition which substantially limits a major life activity
19 such as caring for one's self, performing manual tasks, walking, seeing,
20 hearing, speaking, breathing, learning, working or sensing oncoming
21 seizures.

22 (b) "Guide dog ~~or guide animal~~" means any dog ~~or other animal es-~~ specially
23 ~~pecially~~ trained to guide a totally or partially blind person to participate
24 and enjoy such life activities as set out in K.S.A. 39-1101, and amend-
25 ments thereto.

26 (c) "Hearing assistance dog ~~or hearing animal~~" means any dog ~~or~~ specially
27 ~~other animal especially~~ trained to alerting a hearing impaired person to
28 sounds or intruders. dog

29 (d) "Service or assistance ~~animal~~" means any ~~animal~~ dog individually
30 trained to do work or perform tasks for the benefit of a person with a
31 disability. This can include, but is not limited to, guiding a person with
32 impaired vision; alerting a person with impaired hearing to the presence
33 of people or sounds; pulling a wheelchair and retrieving dropped items.

34 *New Sec. 2. Service ~~or assistance animals~~ can, but are not limited to,* (e) "Therapy dog" means any dog individually trained to work with a
35 performing the following tasks: licensed or certified professional person in such person's professional
36 (a) Lead persons who have visual impairments; practice.
37 (b) alert people who have hearing impairments to the presence of
38 people or specific sounds; ;
39 (c) sense their owners oncoming seizures and warn them so the per-
40 son has time to sit or lie down before the seizure begins; and or guide dog
41 (d) help the physically and, or, emotionally disabled by picking up
42 things providing support, carrying items in backpacks, opening doors,
43 helping the person walk and, or, providing minimal protection.

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1 Sec. 3. K.S.A. 39-1101 is hereby amended to read as follows: 39-
 2 1101. It is hereby declared to be the policy of this state to encourage and
 3 enable the blind, the visually handicapped and ~~persons who are~~ otherwise
 4 physically or emotionally disabled and ~~persons with otherwise hidden dis-~~
 5 abilities to participate fully in the social and economic life of the state
 6 and to engage in remunerative employment. Said persons shall have the
 7 same right as the able-bodied to the full and free use of the streets,
 8 highways, sidewalks, walkways, public buildings, public facilities and other
 9 public places; and said persons are entitled to full and equal accommo-
 10 dations, advantages, facilities and privileges of: (a) All common carriers,
 11 airplanes, motor vehicles, railroad trains, motor buses, street cars, boats
 12 or any other public conveyances or modes of transportation; (b) hotels,
 13 lodging places and places of public accommodation, amusement or resort,
 14 including food service establishments and establishments for sale of food;
 15 and (c) other places to which the general public is invited, subject only
 16 to the conditions and limitations established by law and applicable alike
 17 to all persons.

[the person

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18 Sec. 4. K.S.A. 39-1102 is hereby amended to read as follows: 39-
 19 1102. Every totally or partially blind person shall have the right to be
 20 accompanied by a guide dog ~~or other service animal, especially~~ trained
 21 for the purpose, in or upon any of the places listed in K.S.A. 39-1101,
 22 and amendments thereto, in the acquisition and use of rental, residential
 23 housing and in the purchase and use of residential housing without being
 24 required to pay an extra charge for the guide dog ~~or other service animal~~,
 25 except that such person shall be liable for any damage done to the prem-
 26 ises or facilities by such dog ~~or service animal~~.

[specially

27 Sec. 5. K.S.A. 39-1103 is hereby amended to read as follows: 39-
 28 1103. Any person, firm, corporation, or ~~the~~ agent of any person, firm or
 29 corporation, who denies or interferes with admittance to or enjoyment of
 30 the public facilities enumerated in K.S.A. 39-1101 and 39-1102, and
 31 amendments thereto, or otherwise interferes with the rights of a totally
 32 or partially blind person, otherwise disabled person or trainer of a guide
 33 dog ~~or other service animal~~ under K.S.A. 39-1101, 39-1102, 39-1108 and
 34 39-1110, and amendments thereto, shall be guilty of a misdemeanor.

[or assistance dog

35 Sec. 6. K.S.A. 39-1105 is hereby amended to read as follows: 39-
 36 1105. It is the policy of this state that the blind, the visually handicapped
 37 and ~~persons who are~~ otherwise physically or emotionally disabled shall be
 38 employed in the service of the state, political subdivisions of the state,
 39 the public schools and in all other employment supported in whole or in
 40 part by public funds, on the same terms and conditions as the able-bodied,
 41 unless it is shown that the particular disability prevents the performance
 42 of the work involved.

[the person

43 Sec. 7. K.S.A. 39-1107 is hereby amended to read as follows: 39-

2-3

1 1107. Every hearing impaired person has the right to be accompanied by
2 a hearing assistance dog ~~or other service animal~~, especially trained for the
3 purpose of hearing assistance, in all hotels, motels and other places of
4 lodging and housing without being required to pay an extra charge for
5 the hearing assistance dog ~~or other service animal~~. The hearing impaired
6 person shall be liable for any damage done to the premises or facilities
7 by such dog ~~or service animal~~.

—specially

8 Sec. 8. K.S.A. 39-1108 is hereby amended to read as follows: 39-

9 1108. Every person with a physical or emotional disability shall have the
10 right to be accompanied by a service dog ~~animal~~, especially trained and
11 certified for the purpose which shall include, but not be limited to, pulling
12 a wheelchair, opening doors and picking up objects, in or upon any of the
13 places listed in K.S.A. 39-1101 and section 2, and amendments thereto,
14 without being required to pay an extra charge for ~~the service dog animal~~.

—or assistance dog, specially

15 Such person shall be liable for any damage done to the premises by such
16 dog ~~service animal~~.

—Such dog

17 Sec. 9. K.S.A. 39-1109 is hereby amended to read as follows: 39-

18 1109. Any trainer, from a recognized training center, of a guide dog,
19 hearing assistance dog or service dog ~~service animal~~, while engaged in
20 the training of such dog ~~animal~~, shall have the right to be accompanied
21 by such dog ~~animal~~ in or upon any of the places listed in K.S.A. 39-1101,
22 and amendments thereto, without being required to pay an extra charge
23 for such dog ~~animal~~. Such trainer shall be liable for any damage done to
24 the premises of facilities by such dog ~~animal~~.

—dog

—Guide, service or assistance dog

—dog

(11) 25 New Sec. 10. The secretary of health and environment shall adopt
26 rule: and regulations necessary to implement the access provisions of
27 K.S.A. 39-1101 through 39-1109, including new section 1, and amend-
28 ments thereto, by means of a permit carried by the disabled person or
29 trainer or a tag attached to the collar or harness of a trained guide, service
30 or assistance animal. The permit or tag shall identify the animal as a
31 trained guide, service or assistance animal allowing the disabled individual
32 and animal or animal trainer and animal access provided under K.S.A.
33 39-1101 through 39-1109, including new section 1 and amendments
34 thereto.

New Sec. 10. A licensed professional therapist or other licensed or certified professional who uses a certified therapy dog in such person's professional practice shall have all the access rights contained in K.S.A. 39-1101 through 39-1109, and amendments thereto.

—And renumber remaining sections accordingly

(12) 35 Sec. 11. K.S.A. 39-1101, 39-1102, 39-1103, 39-1105, 39-1107, 39-
36 1108 and 39-1109 are hereby repealed.

(13) 37 Sec. 12. This act shall take effect and be in force from and after its
38 publication in the statute book.

and section 2, and amendments thereto, by providing that the certification in K.S.A. 39-1108, and amendments thereto, or a copy of such certification form or other document is transferred to the disabled person, licensed or certified professional person or trainer and provide that such document shall identify the dog as a trained guide, service, assistance or therapy dog. Allowing such dog and its disabled person, licensed or certified professional or trainer

Tuesday, 2-26-00, 1:30 pm, 423-S
To: Committee on Health and Environment
IE: HB 2924

Dear Committee, I'd like to thank you for the opportunity to speak today.

My name is Debbie Jones and I have a disability, although it's not visible to the eye, it's very real. I was involved in an accident and had a difficult time driving on the highway or at night after my accident. I would experience panic attacks. I discovered that there were dogs, for emotional support, to help in these matters. I purchased Charlie and everyone saw a big improvement (so I was told) in my moods and definitely in the panic attacks. I know I have not experienced any more panic attacks, and don't get depressed like I use to.

Charlie underwent personal training in my home, a trainer came in once a week and showed me what to work on for the following week. This continued for two months, at this point, we traveled to Concordia (yes, alone! Just me and Charlie!), where we went to school at C.A.R.E.S. for a week, at the end of the week, Charlie had to pass a "public access" test, which would allow him access to any public facility. He passed and received his diploma. He goes with me to work, church, restaurant, everywhere!

I think there's a problem that people have with their "therapy" dogs, that is why I am here, I think it should be defined in the law that "emotional support dogs" have the same rights as any other service animal. In Sec. 4, emotional support dogs should be allowed in any rentals, Sec. 7 motels, Sec. 6 work related environments, etc... I too think it is important that these dogs wear identification of some sort, stating they are assistance dogs. Fed. law does not require this, but I think it would prevent a lot of abuse of this law, on a state level. Charlie wears a collar that is labeled "therapy" and I also carry a card with me.

Charlie has helped me through a lot of rough times, he has allowed me to work a part-time job, drive on the highway (even at night), he has definitely been a mood elevator and helped me to reduce my medication, no more panic attacks, he has been a God send! You could probably parallel this to, it's always easier doing something with a friend, well Charlie is my friend!

I'd be extremely happy to answer any questions that you might have, I not only support this bill, but feel like society needs educated on this matter and would be happy to speak to anyone on this at any time.

Thank you once again!

Debbie Jones

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PO Box 314
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Concordia, KS 66901-0314

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1-800-498-1077
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Sarah Holbert, CEO

Ty Fleshman, Adult Services
Director

Lori Refior, Apprentice Trainer

Megan Frydendall, Apprentice Trainer

Sarah Holbert, CEO
CARES, Inc.
PO Box 314
Concordia, KS 66901
Phone: (785) 243-1077
Fax: (785) 243-1079

February 21, 2000

Chairman Boston and Members of the Health and Human Services Committee:

I would like to thank you on behalf of the CARES staff and board of directors for hearing testimony on H.B. 2924. I would also like to thank Rep. Joann Freeborn and the sponsoring Representatives for implementing this bill.

CARES has been placing assistance dogs since 1994. We have placed a total of 145 assistance dogs in 19 different states. We began by placing service dogs with persons with physical disabilities. Very quickly, we also placed our first Professional Therapy Dog with Terry Coughlin, a High School Teacher of Behavior Disorders and Learning Disabilities. Since Mrs. Coughlin received "Jay" in October of 1994, we have placed 45 Professional Therapy dogs in Kansas and six other states. I have enclosed a portion of an article that will be published in the McPherson Sentinel this week; it does an excellent job of telling the Professional Dog story. By making our schools places where our kids want to be can only result in kids learning more and feeling safe and loved which is not always the case at home.

We placed our first Seizure Alert Dog in October 1995 with a five-year-old girl with severe seizures. "Ebert's" alerting the parents afforded them the time to get Julia into a safe environment so that her seizures were less physically harmful. Before "Ebert", a Papillion, Julia was often in the emergency room for stitches or injuries incurred during a seizure; after, she actually had less seizure activity, especially at night, and was far less likely to be injured. Sarah's dog, "Clancy", alerted one day while she was swimming in a lake on a family vacation. Although she looked fine to her parents, they decided to follow Clancy's alert and had her come to them on shore. Ten minutes later Sarah had a seizure that certainly

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could have been life threatening had she been in the water. Currently, we have four placed seizure alert dogs, all in the state of Kansas.

The placement of Emotional Support Dogs is the newest of our placed canine assistants, but the fastest growing. We are very meticulous in our requirements for receiving an Emotional Support Dog. Documentation of a specific emotional disability from a qualified professional must accompany the application requesting a canine assistant. There must be goals that the dog can specifically help the individual with, the same requirement we have for our other canine assistance areas. Emotional Support Dogs are used by people for emotional assistance with panic disorder, schizophrenia, etc. Last June, CARES was awarded an "Oscar" by Keys for Networking for the placement and support given to a young man in southeastern Kansas. We placed an Emotional Support Dog with Tim. "Sugar Bear", a Border Collie, gave Tim the confidence during school to interact with his peers. When Tim was diagnosed at 10 years of age with schizophrenia he did not sleep well. In fact, when he came to the canine assistance class, Tim had not slept for over 1-2 hours at a time for almost two years. The first night that he had Sugar Bear, he slept for eight hours. He told his mom that he could sleep because he finally felt safe. Tim's mom and teachers saw an increase in participation in school. Tim's grades improved, he missed less school and increased the number of subjects he could study. We have placed 9 Emotional Support Dogs in Kansas and four other states.

The ADA specifically covers the Emotional Support and the Seizure Alert Dogs. And while the Professional Therapy Dogs are not as clearly defined, a case can definitely be made that these dogs are aiding persons with disabilities. Teachers, counselors, physical therapists, etc. that have these dogs need to be able to take them to and from work. When a teacher accompanies his/her class on a field trip, they need to have the ability to take their Professional Therapy Dog with them. In order for these canine assistants to maintain their high level of manners, they should continually be worked with in public. All of our canine assistant teams have to pass the Assistance Dogs International Public Access Test before they are able to graduate. They must then be able to pass it at anytime afterward if they are asked to do so.

Next week we will begin our canine assistance classes for the year 2000. We will be placing nine Therapy Dogs. Besides Kansans, we have people coming from Colorado, Iowa and Illinois. CARES has over 50 persons on our waiting list for these three types of canine assistants. Unfortunately, information about their use and benefits is seldom seen. The passing of H.B. 2924 and the corresponding amendment is a statement by Kansas acknowledging that persons with these "hidden" disabilities have the same support and rights as any person with a visual or physical disability supported in the current Kansas statute K.S.A. 39-1101, 39-1103, 39-1105, 39-1107, 39-1108 and 39-1109.

Again, thank you for your time and consideration.

Sarah Holbert



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

February 22, 2000

I am Dr. Gail Hansen, the public health veterinarian for Kansas. I work in the Bureau of Epidemiology and Disease Control at the Kansas Department of Health and Environment. I have worked in public health for seven years and was a veterinarian in private practice for 14 years.

The Kansas Department of Health and Environment recommends amending HB 2924 to require current rabies vaccination and rabies tag for all service animals for which there is a licensed rabies vaccine. Currently this includes dogs, cats, and ferrets.

Requiring rabies vaccination for service animals is a simple public health measure that can eliminate the need for expensive human medical treatments and can save lives. Rabies is caused by a virus that is transmitted most often by the bite of an infected animal. All mammals are susceptible to rabies, but usually carnivores transmit the disease. Rabies is a fatal disease in animals and people and animal rabies is considered an endemic disease in Kansas. Domestic animals that have been bitten by a rabid animal can transmit the virus before they show any signs of disease. Effective vaccines are available to prevent domestic animals from developing rabies and subsequently transmitting it. The vaccine usually costs less than \$20 and is given every one to three years. Post exposure treatment is available for persons exposed to rabies. The treatment is given as soon as possible after the exposure to rabies; once signs of rabies develop in a person, all treatments are ineffective and the person will die. The treatment takes four weeks to complete, with an average cost of \$1800-\$2500 for each person treated.

An unvaccinated service animal taken into a public place has the potential to expose many people to rabies if the animal is infected. Determining who may have been exposed to rabies from an animal that was in public settings before it showed signs of illness, contacting those people, and arranging appropriate treatment is a logistical and public health nightmare. The financial costs could be immense. Failure to find all of those people could result in a completely preventable, deadly tragedy. Requiring rabies immunization of service animals is a simple, inexpensive way to prevent such problems.



Choices & resources for people who are blind or low vision

Envision®

PLEASE REPLY TO: Michael Byington, Director
Envision Governmental Affairs Office
924 S. Kansas Ave
Topeka, Kansas 66612
(785) 354-4747 (Topeka Office)
(785) 640-4500 (pager and mobil)
(785) 354-4646 (FAX)
mbyingto@ink.org or
michael.byington@envisionus.com

February 22, 2000

TO: House Health and Human Services Committee

RE: Opposition to House Bill 2924

Let me begin by explaining a little about who Envision is and why we are concerned about guide dog access laws and access laws for other service animals in Kansas. We are the largest, and one of very few, not-for-profit corporations which is incorporated in Kansas specifically for the purposes of serving those who are blind and visually impaired. We do not train guide dogs or any other type of assistance animals, but we do assessments for any or all of the guide dog training schools with regard to the qualifications and readiness of blind prospective guide dog users in Kansas. We also provide follow-up orientation and mobility training for blind people and their new guide dogs who have just recently been paired and returned to their home towns and neighborhoods from one of the guide dog training facilities around the country. From these standpoints, we know what it takes to have an appropriately trained, controlled, and handled assistance dog who has, by virtue of the training process, earned the right to utalize the high degree

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of public access afforded by K.S.A. 39-1101 et seq.

Envision has done some work on the guide dog access laws in the State in the past, and although there are minor clean ups which would be advisable for the guide dog access laws in Kansas, we think our law in this State functions pretty well. The adoption of the American's With Disabilities Act has made state guide dog and assistance dog access laws more important, not less. The ADA simply says that assistance animals can enter public accommodations as defined in Title III of the Act. It leaves it up to the State laws, however, and to the establishment of case law, to establish the definition of a guide dog, service dog, assistance animal, etc.

Personally, as a lobbyist working for other blindness and low vision organizations prior to my work with Envision, I have done most of any recent statute drafting on this Legislation which has made it through the process and into Kansas laws. I agree that very legitimate new areas where animal assistance is used to assist people who have disabilities will probably soon necessitate additional clean-up work on this group of statutes, but House Bill 2924 is not well written and will create more problems than it solves.

The term in the new definition "other hidden disability" leaves a great deal to interpretation. Almost any human being may be able to qualify under this definition.

I am not sure that it is really in the best interest of Kansas citizens to open the access laws up to any or all animals used for assistance, but that is what House Bill 2924 would do. I am aware of documented cases where it has been proven that persons who have certain types of autism can benefit in terms of attention span and consistent focus from the company of large, trained snakes, usually non poisonous, but nonetheless, do we really want to give such snakes the same potential access status as a guide dog which has been through at least a year and a half of training and behavior modification before it is paired with its blind travel partner? House Bill 2924 would potentially allow this same level of access.

I am also concerned that House Bill 2924 builds the provision of "minimal protection" into the statutes. I will certainly acknowledge that a guide dog who stops its master from stepping out in front of oncoming traffic which the

master may not have heard is providing a form of protection. The dog who alerts its master that a seizure is soon to come also is providing a form of protection. To use the term "protection" in the law, however, makes the line too fuzzy between "guide" dog and "guard" dog. A guard trained dog who misunderstands a situation or who incorrectly perceives a threat to their master could do a great deal of damage to another human being. If this happens a few times, blind, guide dog users will begin to lose their legal rights of access, for which they fought and worked so hard over many years, along with those who recently acquired the same access rights much more easily for their autism parrot, hearing assistance rat, or service pig.

Please do not assume that we wish to prevent new disability groups who discover ways to use animal assistance from doing so. A great many standards, and a great deal of testing, was done, however, before guide dogs ever earned the access rights they currently enjoy. Service dogs have more recently joined most of the same access laws, but the Assistance Dogs International organization has promulgated very specific and rigorous standards to help define what actually qualifies as a service or assistance dog. Likewise, the National Accreditation Council of Agencies Serving the Blind has promulgated a very high and realistic set of standards by which the work of a guide dog can be measured. The State of California has developed an entire, very complex licensing procedure for the several guide dog training facilities which operate in that State.

Instead of really looking at any of those standards and determining whether they are right for Kansas, House Bill 2924 asks the Kansas Department of Health and Environment to simply figure out what constitutes an assistance animal which qualifies under assistance animal access laws, and to allow for the issuance of a tag, or identification to document this ill defined authentication.

I have worked with, and around, people who are blind, many of whom use guide dogs, for all of my adult professional life. My wife is a guide dog user, so I have lived with guide dogs for the past 25 years of my life. Through these experiences I have had several occasions to assist guide dog users who felt that their civil rights have been violated. Frankly, over many many repeated incidents, I have found that local police departments and county attorneys are more likely to understand and be willing to enforce K.S.A. 75-37,123 than are Department of Health and Environment officials. On three

occasions when I was contacted by blind, guide dog users who were denied rooms in hotels or motels because of their dogs, Department of Health and Environment officials referred the cases to the Secretary of the Department of Social and Rehabilitation Services, who in turn, referred the same cases back to the Department of Health and Environment.

The issue of certification or credentialing of assistance animals is indeed an issue which will need to be visited in Kansas over the next few legislative sessions. The more varieties of assistance animals which are discovered or created, the more essential credentialing and definitions will be. House Bill 2924, however, attempts to do a quick fix on a complex problem. It does it poorly and it is not a bill which will well serve the disabled or non-disabled citizens of Kansas.

I would suggest that the issue of assistance dog and animal credentialing and certification in Kansas be referred for interim study. In this context, time and research can be focused to arriving at more certain and workable solutions to an increasing problem in definitional law.

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HOUSE BILL No. 2758

By Committee on Health and Human Services

1-31

9 AN ACT concerning laboratories; on-site drug tests; amending K.S.A.
10 1999 Supp. 65-1,108 and repealing the existing section.

11

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

13 Section 1. K.S.A. 1999 Supp. 65-1,108 is hereby amended to read as
14 follows: 65-1,108. (a) It shall be unlawful for any person or laboratory to
15 perform tests to evaluate biological specimens for the presence of con-
16 trolled substances included in schedule I or II of the uniform controlled
17 substances act or metabolites thereof, unless the laboratory in which such
18 tests are performed has been approved by the secretary of health and
19 environment to perform such tests. Any person violating any of the pro-
20 visions of this section shall be deemed guilty of a class B misdemeanor.

21 (b) As used in this section and in K.S.A. 65-1,107 and amendments
22 thereto, "laboratory" shall not include: (1) The office or clinic of a person
23 licensed to practice medicine and surgery in which laboratory tests are
24 performed as part of and incidental to the examination or treatment of a
25 patient of such person; (2) the Kansas bureau of investigation forensic
26 laboratory; (3) urinalysis tests for controlled substances performed only
27 for management purposes on inmates, parolees or probationers by per-
28 sonnel of the department of corrections or office of judicial administration
29 and which shall not be used for revoking or denying parole or probation;
30 (4) urinalysis tests approved by the secretary of corrections for controlled
31 substances performed by the community corrections programs; (5) uri-
32 nalysis tests approved by the secretary of corrections for controlled sub-
33 stances performed by personnel of the community correctional conser-
34 vation camp in Labette county which is operated under agreements
35 entered into by the secretary of corrections and the board of county com-
36 missioners of Labette county pursuant to K.S.A. 75-52,132 and amend-
37 ments thereto; or (6) urinalysis tests performed for management purposes
38 only by personnel of alcohol and drug treatment programs which are

39 licensed or certified by the secretary of social and rehabilitation services;
40 or (7) places of employment or occupational health clinics where: (A) On-
41 site drug tests that meet the requirements of the United States food and
42 drug administration for commercial distribution are administered as in-
43 itial screening tests according to the United States food and drug admin-

1 istration package insert that accompanies the test and where the operator
2 who administers the on-site test has been trained in the use and admin-
3 istering of the on-site screening test by the manufacturer of the on-site
4 screening test or the manufacturer's designee; (B) the employer or occu-
5 pational health clinic adheres to ~~any~~ rules and regulations adopted by the
6 secretary of health and environment, which the secretary is hereby au-
7 thorized to adopt, pertaining to specimen collection, urine specimen, ship-
8 ping of specimens, chain of custody and confidentiality that may be ap-
9 plicable to on-site drug testing; (C) if an on-site screening test obtains a
10 test result that indicates the presence of drugs or the metabolites of drugs,
11 and if the test result may be used to deny or deprive a person of employ-
12 ment or any benefit, ~~or may otherwise result in an adverse action being~~
13 ~~taken against the person,~~ the same sample that produced the test result is
14 submitted for a confirmatory test to a testing laboratory licensed or ap-
15 proved by the secretary of health and environment.

16 Sec. 2. K.S.A. 1999 Supp. 65-1,108 is hereby repealed.

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

, provided such rules and regulations do not exceed the requirements of the federal mandatory guidelines for federal workplace drug testing programs pertaining to specimen collection, urine specimen, shipping of specimens, chain of custody and confidentiality;



TESTIMONY

on

JOB APPLICANT AND EMPLOYEE DRUG TESTING

and in support of

ON-SITE DRUG TESTING,

HOUSE BILL 2758,

and the

ATTORNEY GENERAL'S INTERPRETATION OF K.S.A. 1996 Supp. 65-1, 108

submitted to the

COMMITTEE ON HEALTH AND HUMAN SERVICES

of the

KANSAS HOUSE OF REPRESENTATIVES

for the

INSTITUTE FOR A DRUG-FREE WORKPLACE

by

Mark A. de Bernardo

Topeka, Kansas

February 22, 2000

I. Statement of Interest

Good afternoon, Mr. Chairman and Members of the Committee on Health and Human Services. My name is Mark A. de Bernardo, and on behalf of the Institute for a Drug-Free Workplace (the "Institute"), I welcome this opportunity to testify in support of responsible drug testing, and in support of House Bill 2758.

The single most important point that I wish to make today is that the American employer community wants and needs the option of on-site drug testing.

The Institute is a non-profit coalition of major businesses and business organizations dedicated to promoting and protecting the interests of employers and employees in effective and responsible drug-abuse prevention programs, and to positively influencing the national debate on workplace drug-testing issues.

The Institute includes in its membership many of the largest employers in the United States, and a wide range of companies of all sizes, chambers of commerce, trade associations, and community coalitions. Many of the Institute's members have major work sites and/or do significant business in the State of Kansas.

I am the founder, and have the privilege of serving as the Executive Director, of the Institute. I also serve as the President of the Foundation for Drug Education and Awareness. In addition, I am an attorney at Littler Mendelson, the largest employment and labor law firm in the world. I serve as the Managing Partner of its Washington office, and as a member of its Board of Directors.

My practice is focused on workplace drug-testing and drug-abuse prevention issues. In this regard, I have served as legal counsel to the U.S. House of Representatives, six Federal agencies, three foreign governments, and three states - including the State of Kansas.

From 1989 to 1991, I was retained by the State of Kansas to review and revise its public-sector drug-testing policy and programs, as mandated by the Legislature. I had the pleasure of working closely with Susan Irza, the then Director of the Division of Personnel Services in the Kansas Department of Administration, and also spearheaded a series of drug education and awareness conferences for State employees.

I come before the Committee on Health and Human Services today to deliver three basic messages:

- (1) The American employer community has to contend with an enormous employee drug-abuse problem (according to the U.S. Department of Health and Human Services, 73 percent of those who engage in illicit drug use are employed);¹
- (2) On-site drug testing is a common (and getting more-and-more common), effective, appropriate, and necessary tool in addressing – and preventing – employee substance abuse, and thereby substantially contributes to the protection of employees, the public at large, and the environment from the risks posed by impaired workers in safety-sensitive positions; and
- (3) The law in Kansas as to the rights of employers to do on-site drug testing is consistent with the strong national consensus on this issue if the Kansas Attorney General's Opinion is adhered to, rather than the subjective interpretations of selected agency officials. A clarification of the law, consistent with the language and legislative intent of this body, *and* with the Attorney General's Opinion, is both necessary and appropriate.

II. Background on State Action on Drug Testing and Summary of the Institute's Position

The Institute was created in March 1989, in large part because of the proliferation of state legislation and proposed legislation that unduly restricted, or would have unduly restricted, employee drug testing and employers' ability to effectively address drug abuse.

Fortunately, that trend has been reversed. The strong majority of bills now being considered at the state level are favorable on drug testing, not unduly restrictive.

¹ Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services, *1998 National Household Survey on Drug Abuse* (August 1999).

In fact, numerous states – Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Iowa, Louisiana, Mississippi, South Carolina, Tennessee, and Utah in particular – have enacted legislation which effectively fosters an appropriate balance between employer and employee rights and responsibilities, and encourages responsible drug-free workplace programs.²

Furthermore, three states which had enacted anti-drug-testing laws in the late 1980s have retreated at least somewhat on this issue: Iowa (a complete repeal and replacement with a pro-drug-testing statute), and Montana and Connecticut (modest reforms favorable to workplace drug testing).

The Institute’s approach, which was incorporated in the Model Drug-Free Private Sector Workplace Act of the President’s Commission on Model State Drug Laws,³ has been refined and improved.

Five states have taken this approach – enacting similar laws that provide for a *quid pro quo*. Employers who choose to drug test their employees and job applicants, can also choose to follow a rigorous set of safeguards that provide extensive rights and protections for those to be tested. In return, these employers will be provided a shield from legal challenges for acting in good faith on drug-test “positives.”

Thus, by providing a “carrot” incentive to employers to act in the most responsible fashion in drug testing, this approach is both pro-employer and pro-employee, is self-policing (employers who do *not* follow the law’s safeguards, do *not* qualify for a shield from legal liability), and is revenue neutral (it costs taxpayers nothing). It is an approach taken by the legislatures in Alaska, Arizona, Idaho, Iowa, and Utah – and one which we commend to this Committee’s attention and respectfully urge for adoption by the Kansas Legislature.⁴

² See *1999-2000 Guide to State and Federal Drug-Testing Laws*. Institute for a Drug-Free Workplace. Washington, D.C. 1999. A copy of this publication is being submitted to the Committee on Health and Human Services for inclusion in its resources and records.

³ *Drug-Free Families, Schools, and Workplaces*. The President’s Commission on Model State Drug Laws. The White House. December 1993. p. M-199. The President’s Commission on Model State Drug Laws was comprised of 24 Commissioners, a majority of whom were Democrats. The Commissioners included state attorneys general, state legislators, police chiefs, treatment service providers, an urban mayor, a housing specialist, district attorneys, a state judge, and drug-abuse prevention specialists.

⁴ *Id.* A copy of this model drug-free workplace legislation is included in Appendix N, pp. 655-662, of the publication submitted by the Institute to this Committee. See, *supra*, n.2.

In addition, the overwhelming majority of state regulatory action in the '90s has either been supported by the employer community or considered neutral by the employer community - that is, consistent with the substance and philosophy of state legislative action, state regulatory agencies have *not* implemented regulations which have been unduly or inappropriately restrictive of workplace drug testing.

In this regard, and relevant to the issues to be addressed by this Committee today, the North Carolina Department of Labor recently lifted its restrictions on on-site drug testing, joining the vast majority of states (44 in all) who have *not* enacted drug-testing laws which restrict or prohibit on-site testing, and further recognizing the appropriateness and business necessity of this drug-testing option. The Institute respectfully urges the Kansas Legislature to clarify K.S.A. 1996 Supp. 65-1, 108 to act in precisely the same manner.

Unlike Arkansas, Missouri, Iowa, Nebraska, and Colorado - *none* of which have enacted drug-testing laws restricting or prohibiting on-site testing - Kansas's law, by *some* interpretations, denies its employers the option of using responsible on-site drug testing for employees and job applicants, is out-of-sync with state legislative and regulatory action nationwide, contradicts the trend towards greater employer flexibility in addressing workplace substance-abuse problems, and is counterproductive to employers' efforts to ensure the safety of their work forces and the public at large.

Most states recognize and appreciate on-site drug testing as an increasingly common, effective, and necessary tool in workplace drug-abuse prevention.

The Institute respectfully urges the Kansas Legislature to recognize this as well, to resolve the apparent conflict in interpretation between branches of the Kansas government, and to enact House Bill 2758.

III. The Controversy in Kansas

There *should* be no need for this hearing or for House Bill 2758 because ostensibly, as a matter of law, the issues before you were conclusively decided by the Attorney General of Kansas, Carla J. Stovall, and the Assistant Attorney General of Kansas, Donna M. Voth, in the Attorney General's Opinion No. 97-96.⁵

⁵ Attorney General of Kansas Opinion No. 97-96, December 3, 1997.

The Attorney General did a legal analysis of K.S.A. 1996 Supp. 65-1, 108, the Kansas laboratory-licensing law, including its legislative intent, the testimony at hearings in 1988 when this law was enacted, and the language and legislative intent of “the original version of the statute.”⁶

Attorney General Stovall found that the original 1947 laboratory-licensing law addressed testing by “any person, firm, corporation, city or county,” and that the 1988 laboratory-licensing law addresses testing by “any person or laboratory” (thereby deleting “firm, corporation, city or county”). The Attorney General concluded that this deletion was purposeful, clearly indicative of legislative intent, and controlling on the issue of whether on-site testing was subject to laboratory-licensing regulations – it was not.⁷

In fact, the Attorney General noted in her Opinion:

Testimony by the Kansas Department of Health and Environment (KDHE) at the hearing on this bill in 1988 explained that the amendments represented “*a change in the focus of approval from persons performing the tests, to a more appropriate laboratory approval approach*” (emphasis added).⁸

The Attorney General concluded – in decisive and unequivocal terms – that:

In our opinion, places of employment do not fall within the definition of “laboratory” merely because DRUG TEST kits are used on the premises... an employer generally is neither a person nor a laboratory within the meaning of K.S.A. 1996 Supp. 65-1, 108... we believe that *an employer’s use of on-site kits for controlled substances is not contemplated or prohibited by the statute* (emphasis added).⁹

For employers using on-site drug testing as part of their substance-abuse prevention programs, there could be no clearer determination of their rights in this regard.

However, apparently that determination is not so clear to the Kansas Laboratory Improvement Program.

⁶ *Id.*, at 2.

⁷ *Id.*, at 2.

⁸ *Id.*, at 2.

⁹ *Id.*, at 3.

It is my understanding that Stanley Sutton, the Chief of the Laboratory Improvement Program for the Kansas Department of Health and Environment, has been advising employers that: (1) they cannot do on-site drug testing; (2) all workplace drug testing – including initial screens – have to be performed at laboratories licensed by the State of Kansas; and (3) he – and his office – are absolved from adhering to the legal doctrine specifically and unequivocally established by the State's Attorney General.

The legal basis for his ignoring – indeed contradicting – the official legal Opinion promulgated by the Attorney General is, to me, unknown and perhaps unknowable. My understanding of jurisprudence in America is that Attorneys General, implementing and enforcing statutes enacted by State Legislatures, take precedence over the personal preferences and interpretations of mid-level bureaucrats.

This controversy on on-site drug testing in Kansas has needlessly arisen and been perpetuated because a State official chooses to adopt a position in direct contravention to the Attorney General, the Assistant Attorney General, the Chairman of the Kansas Senate Public Health and Welfare Committee, the legislative intent *and* language of K.S.A. 1996 Supp. 65-1, 108, and – ironically – the testimony of the very agency, the Department of Health and Environment, in 1988 at the time of enactment of the laboratory-licensing legislation, for which this State official now indirectly works.

There should be no controversy. The Committee on Health and Human Services, and the Kansas Legislature in general, should: (1) resolve this matter consistent with the Attorney General's Opinion; (2) restore Kansas to the ranks of the overwhelming majority of states who have *not* restricted or prohibited on-site drug testing; (3) expand the rights and protections afforded to job applicants and employees who are subject to on-site drug testing by enacting H.B. 2758; (4) preserve on-site testing as a necessary and appropriate option for employers – and employees – in their efforts to achieve drug-free workplaces; and (5) reign in any maverick and/or defiant bureaucrats bent on enforcing laws in ways never intended or condoned by the Legislature or the Attorney General.

IV. Safeguards in H.B. 2758

It is critical to the considerations of the Committee on Health and Human Services, and of the Kansas Legislature in general, that we all recognize not only the necessary and appropriate role for on-site drug testing for protecting the safety, health, and well-being of employees and the public at large, but that we also recognize the extensive safeguards which H.B. 2758 embodies.

Representative Gerry Ray has introduced an amendment to K.S.A. 1996 Supp. 65-1, 108 that is thoughtful, balanced, and fair. It effectively addresses the concerns of the credible opponents of on-site drug testing (those who oppose on-site testing for commercial reasons cannot be easily appeased). It has substantial and effective safeguards to prevent abuses and to ensure the integrity of the testing process. It would clarify that Kansas is "mainstream" and moderate on the issue of on-site drug testing, consistent with the consensus in the country and your neighboring states.

In fact, prohibitions of on-site drug testing, a position apparently advocated by some at the regulatory level in this State, represent the *radical* position. Representative Ray's position is moderate, balanced, and appropriate, and for this the Institute for a Drug-Free Workplace thanks and congratulates her.

One seminal safeguard is that "positive" drug tests would have to be confirmed by a state-licensed laboratory. Employers could not - and, as a practical matter, *do not* - take adverse employment action against employees, including denial of employment to job applicants, based on an on-site drug-screen "positive," but rather *only* if that initial screen is verified by a second drug test, known as a confirmatory assay, at a licensed laboratory. This is a substantial safeguard.

H.B. 2758 has other significant safeguards:

- On-site drug tests would have to meet Federal standards of accuracy through approval by the U.S. Food and Drug Administration ("FDA") for commercial distribution, a demanding process that requires that the test meets or exceeds FDA's thresholds for substantial equivalence to proven reference methods;
- Training would be required for those who administer the on-site drug tests; and
- The Kansas Secretary of Health and Environment would be authorized to adopt rules and regulations regarding on-site testing pertaining to urine specimens and their collection, shipment, and chain-of-custody, and regarding confidentiality.

Thus, H.B. 2758 would provide significantly more and stronger safeguards in on-site drug testing than exist under *current* Kansas law as interpreted by the Attorney General. By its requirements on employers, H.B. 2758 would improve the integrity of the testing process, expand the rights of the individuals tested, and better ensure testing accuracy.

What is the answer to the concerns raised by those who feel – *erroneously* – that K.S.A. 1996 Supp. 65-1, 108 applies to, and thus prohibits, on-site drug testing? The answer is a regulatory bill – such as H.B. 2758 – which enhances on-site drug testing, rather than discarding it.

V. The Institute's Position on On-Site Drug Testing

The Institute's concern with the interpretation of current Kansas law by the Chief of the Laboratory Improvement Program is that his interpretation would effectively prohibit on-site drug testing. His interpretation, if adopted, would require that all drug testing, including initial drug screens, be performed at state-licensed laboratories – a requirement that would undermine employer flexibility in addressing employee substance abuse.

On-site drug testing is increasingly common and useful for purposes of performing the initial drug screening of employees, particularly in time-sensitive situations and for safety-sensitive positions. For example, on-site drug testing is very common in the construction, petrochemical, and shipping industries. As a practical matter, the use of on-site drug testing for such positions as employees at construction projects not only makes sense, it could easily be defended as critically important.

Given the economic growth, business expansion, and level of construction which our national economy currently enjoys – and which Kansas also enjoys and seeks to expand – this is particularly relevant. The nature of such construction projects is characterized by a dynamic work force which constantly changes and includes numerous contractors, subcontractors, and vendors, for which impairment of a single employee could result in an accident which would have tragic consequences.

Therefore, it is our strong conviction that the right of employers to utilize on-site drug testing *for drug screen purposes* should be preserved, and to revoke this right, as a Kansas regulatory agency would do, would compromise the safety and health of workers and the public, and could create situations with potential significant harm to the environment as well.

Certainly, the continued requirement for the use of laboratories licensed by the Kansas Secretary of Health and Environment for *confirmation* of drug-screen “positives” is entirely appropriate, and is supported by the Institute and the employer community at large.

Furthermore, Kansas's other testing procedures for laboratories are appropriate, and are endorsed by the Institute for a Drug-Free Workplace.

The Institute has long recognized the importance of these procedural safeguards, and encouraged its members and the employer community at large to incorporate these practices in their drug-testing and drug-abuse prevention programs.

This includes the following language from the Institute's "Policy Statement" which was adopted shortly after the Institute's creation in 1989:

Drug testing should be done "right" or not at all. "Right," in regards to drug testing includes: (1) acting in accordance with a written corporate policy, (2) performing confirmatory tests using a different chemical process to help assure accuracy before acting upon a "positive" drug screen, (3) assuring chain-of-custody and proper documentation for test samples, (4) maintaining the confidentiality of test results as reasonably and appropriately as feasible, and (5) acting with scientifically and medically accepted protocols and procedures to assure accuracy and fairness.

In short, other than the possible restriction on on-site drug testing, Kansas law regarding workplace drug testing is entirely appropriate. This single - but important - employer concern would be significantly rectified simply by clarifying Kansas law on on-site drug testing and enacting House Bill 2758.

The Institute recognizes the human tragedies and economic costs associated with drug abuse,¹⁰ the legitimate role of employers in the "war on drugs," and the need for fair and effective utilization of all available tools - including on-site drug testing - to deter, detect, and treat the drug-abuse problems which are so prevalent in our workplaces,¹¹ endanger our workers,¹² and plague our society.¹³

¹⁰ The total economic cost of alcohol and drug abuse was estimated to be \$166 billion in 1990. (Rice, Dorothy P. 1990. Institute for Health and Aging. University of California at San Francisco. In *Substance Abuse: The Nation's Number One Health Problem*. The Robert Wood Johnson Foundation. Princeton, NJ. 1993.)

¹¹ See discussion of the magnitude of the drug problem as identified by employees regarding their own workplaces, two National and 17 State Gallup Surveys of Employee Attitudes on Workplace Drug Abuse and Drug Testing, the Gallup Organization, Princeton, New Jersey (1989-1996), and as addressed in Sections XI and XII of this statement.

¹² Drug-using employees are 3.6 times more likely to be involved in a workplace accident and are five times more likely to file a workers' compensation claim. (Backer, Thomas E. *Strategic Planning for Workplace Drug Abuse Programs*. National Institute on Drug Abuse. 1987. p. 4.)

On behalf of the Institute for a Drug-Free Workplace and its members, I thank the Chairman and the Members of the Committee on Health and Human Services for this opportunity to express the Institute's strong *support* for: (1) drug-free workplaces; (2) a strong and legitimate employer role in drug-abuse prevention; (3) fair and effective job-applicant and employee drug testing; (4) Attorney General Carla Stovall's Opinion No. 97-96 and interpretation of K.S.A. 1996 Supp. 65-1, 108; (5) Kansas law, which will permit responsible employer flexibility in addressing workplace substance abuse, including affording employers the option to implement on-site drug testing for job applicants and employees; and (6) House Bill 2758. We especially wish to thank and commend Representative Gerry Ray for sponsoring this important legislation.

VI. Advantages of On-Site Drug Testing

On-site drug testing is increasingly common and important to the employer community – and to employees. Among its advantages are:

- (1) Necessity – For some safety- *and* time-sensitive positions, employers cannot wait two-to-three days for a laboratory drug-test result. They simply cannot afford to put *any* employee on the job – even for a day – with a major industrial accident a genuine possibility if that employee is impaired. America's workplace drug problem is enormous: 73 percent of those Americans who engage in illicit drug use are employed, according to the U.S. Department of Health and Human Services.¹⁴ This workplace drug-abuse prevalence precludes those employers, who are in safety-sensitive industries and who need to hire employees immediately, from “gambling” that these employees are drug-free until they can know for sure from a laboratory. The necessity of on-site drug testing can be critical. For employees at remote work locations or with little or no direct supervision, on-site testing also can be useful and necessary;

¹³ A strong correlation also has been demonstrated between violent acts and the abuse of drugs and alcohol. For example, the Center for Substance Abuse Prevention at the United States Department of Health and Human Services estimates that alcohol and other drugs are associated with 68 percent of manslaughter charges, 52 percent of rapes, and 50 percent of spousal abuse cases. Although separate statistics are not maintained for drug-related occupational violence, it is reasonable to infer that a substantial percentage of violent conduct by drug-abusing employees is attributable to their substance abuse. The overall cost of family violence to employers has been estimated at between \$3 billion and \$5 billion annually. (“When Employees Make Good on Bad Intentions.” *EAP Association Exchange*. September 1993. p. 15.)

¹⁴ See, *supra*, n. 1

- (2) **Cost-Effectiveness** – On-site drug testing can be extremely cost-effective: saving employers time and money, and saving their employees and job applicants time. The majority – sometimes the overwhelming majority – of individuals tested will test “negative” and no laboratory screen or confirmation costs will be incurred. It thus can take less management and administrative time; less employee time; less collection, shipping, and storage time and costs; and less overall intrusiveness into workplace operations to do on-site drug testing – particularly for job-applicant screens which, overall, are more numerous than employee tests – than to submit *all* urine specimens to laboratories for testing. Time *is* money. Many employers, beyond producing a *safer* short-term work force (until drug-test results are available), benefit significantly *financially* from on-site testing;

- (3) **Safety** – As addressed earlier, putting employees on the job – even for a short period of time – while you await laboratory drug-test results, can result in tragedy. Some industries – such as construction, petrochemical, shipping, public and private law enforcement and security, and public utilities – cannot afford *any* breach of safety due to having drug or alcohol abusers on the job. One glance at a major construction project or a petroleum storage facility illustrates the need for *no* margin of error on employee fitness-for-duty. This point helps illustrate why, for example, Halliburton, one of the nation’s largest construction companies, conducts more than 50,000 drug tests per year, the overwhelming majority of which are on-site drug tests;

- (4) **Business Development** – With more and more employers embracing on-site drug testing, and with more and more employers committed to drug testing overall (98 percent of the Fortune 200 according to the Business Roundtable), Kansas’s business expansion and development could well be hindered by inflexibility and undue restrictions on drug testing. Eighty-eight percent of the states have *not* enacted drug-testing laws which restrict or prohibit on-site drug testing – which, *arguably*, Kansas does. Only one state bordering Kansas restricts on-site testing – Oklahoma – and there is some likelihood of legislative repeal of that prohibition, which was originally included indirectly in a much broader bill. This is a factor in some employers’ decision-making on work site location and expansion. In fact, 41 percent of the Institute’s members said in a recent survey that a state’s drug-testing laws were a significant factor in its business location, expansion, and relocation decisions; and

- (5) **Employee Benefits** – Most employees are not drug abusers. Most do not want to work side-by-side with drug abusers. A majority of employees are parents, concerned about their children’s exposure to drugs, now or in the future. Given employees’ attitudes, particularly as demonstrated by numerous Gallup surveys (discussed in Sections XI and XII of this testimony), any reasonable measure to ensure completely drug-free workplaces – even in the day or two or three immediately after job applicants’ hire or employees’ testing – are appropriate and would and should be considered beneficial to employees. Moreover, individuals benefit in that on-site drug testing produces quick, definitive “negative” drug-test results – thus assuring employees and job applicants that they have passed their tests, and minimizing any anxiety and concern which the routine delays of laboratory testing can cause.

An additional point about on-site drug testing is in order. Confidentiality regarding drug-test results, as appropriate, can and routinely is maintained. Likewise, sample security can and routinely is maintained. There are standard, reasonable, and effective protocols for on-site drug testing. Moreover, the drug screens are performed using the same immunoassay technology as used in laboratory testing.

VII. **Nature of the Drug-Abuse Problem**

The Institute for a Drug-Free Workplace recognizes the pervasive substance-abuse problems which face American society. These problems pose an enormous risk to public health and safety, and have substantial social and economic costs and consequences in every community and for virtually every person across the country (for example, higher taxes, higher crime rates, higher health-care costs, and higher insurance rates).¹⁵

¹⁵ More than one-half of all people arrested for major crimes – including homicide, theft, and assault – were using illicit drugs at the time of their arrest. (U.S. Department of Justice. National Institute of Justice. 1991 Drug Use Forecasting Annual Report. Washington, DC: NCJ-136045. 1993. p. 21.)

Drug-related hospital emergency-room visits increased eight percent from 1992 to 1993 to a total of 466,900. (Estimates from the Drug Abuse Warning Network. U.S. Department of Health and Human Services. December 1994.)

In particular, the Institute recognizes the threat that drug abuse – and cognizant that alcohol is a major drug of abuse – poses for employers and employees alike. Among other consequences, drug abuse decreases productivity and increases accidents, absenteeism, product defects, medical and insurance costs, and employee theft.¹⁶ Clearly, employers and employees in both Kansas and across the country have a large stake and a legitimate role to play in the “war on drugs.”

VIII. Employer and Employee Rights

For employees, the consequences of drug abuse can be tragic not only for abusers and their families, but also for co-workers and customers who are put in jeopardy by others’ illicit use of drugs. Moreover, beyond the physical dangers, employees’ jobs may be jeopardized if a company’s profitability is undermined by the poor performance, mistakes, and accidents of drug abusers.

For employers, the consequences of drug abuse also can be highly detrimental. If employers in Kansas – and in other states – are to remain competitive in an increasingly global economy, they must strive to maintain a work force that is free from drug abuse.

¹⁶ The estimated losses in productivity in 1988 caused by drug and alcohol abuse were \$40.2 billion. See, supra, n. 10.

In 1991, the reported cost of drug abuse to the business community was \$75 billion annually, or approximately \$640 per employed person based on 117 million U.S. workers. (Tasco, Frank T., Chairman, Marsh & McLennan Companies, and Chairman, The President’s Drug Advisory Council. Address delivered to President Bush and the President’s Drug Advisory Council. Nov. 15, 1991.)

The U.S. Postal Service would have saved \$52 million by 1989 had it screened out all drug-“positive” postal service applicants in 1987. Employees testing “positive” on their preemployment drug tests were 77 percent more likely to be fired in their first three years of employment, and were absent from work 66 percent more often than those who tested “negative.” (Normand, Jacques, Stephen Salyard, and John J. Maloney. “An Evaluation of Preemployment Drug Testing.” *Journal of Applied Psychology*. Vol. 75, No. 6. 1990. pp. 629-639.)

Employees testing “positive” on preemployment drug tests at Utah Power & Light were five times more likely to be involved in a workplace accident than those who tested “negative.” (Crouch, Dennis J., Douglas O. Webb, Paul F. Buller, and Douglas E. Rollins. “A Critical Evaluation of the Utah Power and Light Company’s Substance Abuse Management Program: Absenteeism, Accidents, and Costs.” *Drugs in the Workplace: Research and Evaluation Data*. NIDA. 1989. pp. 169-193.)

In so doing, company drug-abuse prevention programs should be implemented in a fair, consistent, and equitable manner – with due consideration given to the rights, responsibilities, and privacy interests of all concerned parties.

Concerning employee rights, companies must maintain a commitment to *all* their employees, including the vast majority who are not – and will not become – become drug abusers. Employers' responsibility to protect their employees and their employees' rights go far beyond protecting the rights of those who choose to engage in illicit drug use. Employers not only have a right to expect a workplace free from drug abuse, they have a legal duty and a responsibility to ensure it.

IX. Drug Testing

The Institute recognizes that drug testing is not for all employers and all employment situations; that drug testing is not, in and of itself, a drug-abuse prevention program; and that – as mentioned earlier – drug testing should be done “right,” or not at all.

While recognizing the necessity of procedural and policy safeguards to drug testing, and the limitations of drug testing (*vis-à-vis* an overall, comprehensive drug-abuse prevention program), the Institute also fully recognizes that drug testing – including on-site drug testing – *if done properly*: (1) can be a vital component of an effective drug-abuse prevention program; (2) is fair and accurate; (3) can have a strong deterrent effect on drug abuse; (4) is a legitimate and appropriate prerogative of employers; and (5) is ultimately in the best interests of *both* employees and employers.

X. Magnitude of the Drug Abuse in the Workplace Problem

SmithKline Beecham announced on March 16, 1999 the results of its annual “index” of drug-testing results.¹⁷ They found a “positive” rate of 4.8 percent on more than 5.7 million drug tests of U.S. employees and job applicants in 1998. One-in-twenty American employees, *knowing* they were subject to testing, *still* failed their drug tests. What does this say about the magnitude of the drug problem and the attitude of drug abusers in our country?

¹⁷ *SmithKline Beecham Press Release*. Collegeville, Pennsylvania. March 16, 1999.

Roger Smith, the former Chairman of the Board of General Motors, said that drug abuse cost GM \$1 billion a year.¹⁸

One of the "baby Bells," a Fortune 50 telecommunications giant, said 40 percent of its health-care costs were attributable - directly or indirectly - to substance abuse.¹⁹

American Airlines lost \$19 million because one employee, high on marijuana, failed to properly load a tape into its central reservations computer, causing eight hours of computer down time (*no one* could get a reservation on American Airlines nationwide) and significant erasures.²⁰

As these examples demonstrate, drug abuse is a major threat to the workplace, a threat that has enormous human and economic costs.

These examples - and many others like them - have gotten the attention of the employer community. They know drug abuse costs lives and money in the workplace. They are aware of the potential legal liabilities. They know they cannot afford to ignore the problem, and they want as much flexibility as appropriate to best address these problems effectively and cost-effectively - including the option of on-site drug testing.

XI. Magnitude of the Workplace Drug-Abuse Problem as Identified by Employees Themselves

The Institute has sponsored two national surveys, by the Gallup Organization, of employees' attitudes on workplace drug-testing and drug-abuse issues.²¹

The results of the most recent national Gallup survey (March 1996) on the magnitude of the drug problem, as identified by employees *at their own workplaces*, were significant:

- **66 percent** said drug use by their co-workers "somewhat" or "greatly" affects productivity at their workplace (up from 57 percent in 1989);

¹⁸ *Drug Abuse in the Workplace: An Employer's Guide for Prevention*. Second Edition. U.S. Chamber of Commerce. Washington, D.C. 1990. p. 1.

¹⁹ *What Every Employee Should Know About Drug Abuse*. Fifth Edition. Institute for a Drug-Free Workplace. Washington, D.C. 1995. pp. 5-6.

²⁰ See, supra, n. 18.

²¹ See, supra, n. 11.

- **65 percent** said drug abuse by their co-workers posed a safety problem (up from 52 percent in 1989);
- **43 percent** said drug usage by employees in their organization “seriously affects” their “ability to get the job done” (up from 41 percent in 1989);
- **41 percent** said they had “personally seen or heard” of illicit drug use by co-workers *before or after work hours* (up from 31 percent in 1989);
- **35 percent** said they had “personally seen or heard” of illicit drug use by co-workers *on the job* (up from 24 percent in 1989);
- **11 percent** said they had been offered drugs to use on the job (up from 8 percent in 1989); and
- **8 percent** had been approached to buy drugs while at work (up from 7 percent in 1989).

Our nation has an enormous, *and growing*, drug problem – that conclusion is inescapable.²²

H.B. 2758 effectively addresses the need for responsible drug testing. The Institute respectfully urges the Kansas Legislature to recognize the magnitude of the workplace drug-abuse problem, employers’ legitimate interest and important role in drug-abuse prevention, and the need to provide employers with all appropriate and available options to combat employee drug abuse, including the option of on-site drug testing.

²² Beyond the Gallup survey results, there are other convincing indicia of this. For example, 11.4 million Americans were current users of illicit drugs in 1993. “1993 National Household Survey on Drug Abuse.” Substance Abuse and Mental Health Services Administration [SAMHSA]. Office of Applied Studies. Rockville, MD. July 1994.

In addition, 60 percent of all illegal drugs produced in the world are consumed in the U.S., which has four percent of the world’s population. Marini, Gerard A. “Comprehensive Drug-Abuse Programs Can Prove Effective in the Workplace.” *Occupational Health & Safety*. April 1991. p. 54.

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XII. Employee Attitudes about Drug Testing Nationally

Among the other significant findings by the Gallup Organization in its March 1996 national survey of employees' attitudes on workplace drug-abuse issues²³ were the following indicia of employees' dramatically stronger support for workplace drug testing:

- **97 percent** of employees favored drug testing in the workplace at least under some circumstances (the same percentage as in 1989);
- **38 percent** called drug testing "a necessity," while only 1 percent stated it was "not needed" (in 1989, the percentages were 26 and 3, respectively);
- **62 percent** of workers favored drug testing *at their own company*, while 19 percent opposed (the percentages were 66 and 26 in 1989, a less supportive ratio);
- **23 percent** of employees at companies with a policy against drug abuse said that policy was "not strong enough," while only 2 percent said it was "too strong" (up from 22 percent and constant at 2 percent with 1989); and
- **By a 71-to-12 percent margin**, employees polled felt that periodic drug testing in the workplace reduces accidents and product defects (the percent margin in 1989 was 55-to-19).

These findings indicate not only the widespread and expanding support of employees for drug testing and their growing recognition of employers' legitimate role in drug-abuse prevention, they also indicate an increasing intolerance of drug abuse and drug abusers.

The bottom line of *every* Gallup survey done for the Institute²⁴ is the same: employers and employees are on the *same* side on this issue, and that "side" is effective drug-abuse prevention.

²³ See, supra, n. 11.

²⁴ Besides the two national employee surveys, the Gallup Organization has done employee surveys for the Institute in 17 states and in Canada. The results have been very consistent and without exception.

XIII. Conclusion

The Institute for a Drug-Free Workplace respectfully urges the Kansas Legislature to recognize the appropriateness and necessity of workplace on-site drug testing, and to clarify, consistent with Attorney General Opinion 97-96, that on-site drug testing is permitted as an option for Kansas employers in their workplace substance-abuse prevention programs.

In this regard, Kansas law is currently being interpreted by the Chief of the Laboratory Improvement Program in a manner which is not only inconsistent with, and contradictory to, the Attorney General, the Assistant Attorney General, the Chairman of the Senate Public Health and Welfare Committee, the legislative intent and language of Kansas's laboratory-licensing law (K.S.A. 1996 Supp. 65-1, 108), and the Department of Health and Environment at the time of enactment, it is at odds with the laws in the overwhelming majority of states nationwide.

Moreover, this interpretation by the Chief of the Laboratory Improvement Program is prohibitive of an industry practice which is increasingly common, useful, and appropriate for screening purposes, and essential for many safety-sensitive positions and/or time-sensitive workplace situations.

Furthermore - quite frankly - it is an interpretation void of a cogent or compelling legal basis.

On behalf of the Institute for a Drug-Free Workplace, I once again want to sincerely thank the Chairman and the Members of the House Committee on Health and Human Services for this opportunity to testify in support of responsible workplace drug-testing programs, on-site drug testing, and House Bill 2758.

I would be pleased to answer any questions regarding on-site drug testing in particular, or on workplace drug-testing and drug-abuse prevention programs in general, which you may have during your consideration of this legislation or during your future deliberations in regard to these subjects.

Submitted by and for
The Institute for a Drug-Free Workplace



Mark A. de Bernardo
Executive Director

TESTIMONY
on
JOB APPLICANT AND EMPLOYEE DRUG TESTING
and in support of
ON-SITE DRUG TESTING,
HOUSE BILL 2758,
and the
ATTORNEY GENERAL'S INTERPRETATION OF K.S.A. 1996 Supp. 65-1, 108
submitted to the
COMMITTEE ON HEALTH AND HUMAN SERVICES
of the
KANSAS HOUSE OF REPRESENTATIVES
for
eSCREEN, INC.
by
Brian Heatwole
Topeka, Kansas
February 22, 2000

H & HS
2-22-2000
Atch #10

Good afternoon, my name is Brian Heatwole and I am Vice President of Sales for eScreen, and have spent over ten years in the field of substance abuse testing.

eScreen is a newly formed division of National Medical Review Offices (NMRO) - the largest medical review/drug screen management company in the United States, serving companies like Wal Mart, Target, Sears, and Sprint. NMRO is, by far, the nation's expert on reviewing and delivering drug test results - reviewing nearly 400-500 positive results daily, and delivering more than 5 million final results a year. Through years of research and industry experience, eScreen was formed to address the rapid demand for instant drug testing and to serve our national clients demands for an alternative to lab-based drug testing in a tight labor market. eScreen became one alternative for large employers to receive a secure negative drug test result instantly from a local clinic. The eScreen system is a clinic based computer-operated forensic drug screening system. The purpose of the eScreen system is to find negative urine drug screen results during the point-of-collection, and to report results immediately to the employer. The system ensures accuracy, security, confidentiality and ease of operation for the clinic, at the same time delivering negative results in minutes as opposed to days.

I thank you for the opportunity to testify today, and submit my written statement for your review and consideration.

I want to make several brief points that I hope will be helpful to the Committee's consideration:

- eScreen is a company with significant operations in Kansas (Overland Park) and has significant client interests in Kansas
- eScreen strongly endorses H.B. 2758 and a clarification of Kansas's laboratory law consistent with the Kansas Attorney General's position that on-site testing by employers is not affected by that law.

- Tightening labor markets continue to force employers to look at alternative solutions for qualification of applicants in order addresses the growing demand for workers. Many employers have had to make difficult choices about maintaining existing drug free workplace initiatives due to the delay in hiring caused by laboratory delays in drug testing.
- The growth in usage for on-site testing has been exponential, and it is now part of the fabric of the American workplace. Benchmarking programs in both the public and private sector, continue drive growth of on-site drug testing development. For example, the United States Post Office, which hires over 250,000 employees annually, recently converted to an on-site testing program. In the private sector, over 50% of the retail industry, have already adopted on-site testing programs, or are piloting or exploring converting to some form of on-site testing program.
- Why has the use of on-site drug testing grown so much? Because employers want to create and maintain workplaces that are free of substance abuse and their harmful, and sometimes devastating, effects. Because on-site drug testing is accurate, inexpensive, easy to administer, reliable and in some cases necessary. Because on-site drug testing for **negative** screening purposes, offers a myriad of advantages over the lab based screening program.
- eScreen strongly believes that all positive drug screens should be confirmed at a state-licensed laboratory. Representative Gerry Ray's bill, H.B. 2758, requires this -- and rightfully so. Confirmation testing of all presumed positive results is an important safeguard and mirrors a majority of the laboratory based programs in place today.
- There are other important safeguards in H.B. 2758, and in the use of our product and on-site testing products in general. eScreen believes all testing should incorporate protocols consistent with the guidelines for Federal Workplace programs for

- On-site testing allows safer workplaces because more employers are likely to adopt drug testing and drug prevention programs if it is affordable, easy to administer and effective. On-site drug testing adds flexibility, adding to the amount of testing options available, which translates into the adoption of more drug free workplaces and a more drug free society.

I appreciate your consideration and again wish to express on behalf of eScreen, my strong support of Representative Ray's legislation, H.B. 2758, and for on-site drug testing. I would be happy to answer any questions you may have now or in the future.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony Presented to
House Health and Human Services Committee
by Roger Carlson
Kansas Department of Health and Environment

House Bill 2758

Kansas does not have state laboratory licensure laws to ensure the quality of the millions of clinical tests performed on materials from the human body in hospitals, clinics, and physician office laboratories. For this purpose, we rely on federal requirements outlined under the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88). Under HCFA contract, state laboratory improvement specialists evaluate the compliance and proficiency test performance of about 2,000 clinical laboratories in our state. However, non-therapeutic drug tests for applications such as pre-employment and work place monitoring are exempt from CLIA '88 regulations. Due to the absence of any federal requirements that apply to urine drug screening laboratories in our state, Kansas requirements were established under KSA 65-1,108 and KAR 28-33-12. Toward the objective of fair labor practice and workplace safety and security, these requirements were modeled after the CLIA '88 requirements which protect the quality of clinical laboratory tests in our state.

The bill under consideration would remove urine drug tests from the current regulatory requirements and permit the use of drug screening tests performed without laboratory proficiency monitoring, the use of controls at or near the assay cutoff, or analyst personnel requirements. While screening positive results should certainly be confirmed to rule out any of the several causes for false positive test results, there would be no oversight to ensure compliance with this requirement. This committee will undoubtedly hear testimony in support of this bill from those commercial concerns who wish to market urine drug screening technology. Testimony can also be expected from currently regulated laboratories who wish to retain this monitoring work. In the final analysis, we believe that removal of the current laboratory approval requirements through passage of this bill would not serve the interests of Kansas citizens or workplace safety in our state.

Finally, the Committee should be aware that 1997 Attorney General Opinion No. 97-96 has concluded that wording within the statute should be addressed in order to clarify the definition of drug testing entities. We would encourage this change if the current laboratory approval program is retained.

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HHS
2-22-2002
Atch #11

February 22, 2000

The Infinity Group, Inc. (TIGLABS)
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Testimony to be presented to the House Committee on Health and Human Services
1:30 P. M. February 22, 2000

Written by Dr. Gary Branum, Ph.D. CEO and Lab Director of TIGLABS
Presented by Leon Moeder, President of TIGLABS

Re: Opposition to House Bill 2758

HB 2758 amends the existing act governing licensing and certification of drug testing labs in Kansas. It would exempt employers and occupations health clinics from the act and allow them to perform onsite, "quickie" drug tests after being trained by a manufacturer's rep. Thus allowing "non-certified" personnel to conduct drug tests on employees and patients.

Our reasons for opposing this bill are many and varied. Toxicology and drug testing are extremely complex fields and the interpretation of testing results in this area should not be left to the under-trained.

The current law exempts treatment centers, physician offices, the KBI lab, hospital emergency departments and correctional facilities. All laboratories, including all of those listed as exceptions in KSA 65-1,108, make mistakes occasionally. The certification process should be designed to ensure that testing procedures are properly carried out, such that mistakes are kept to a minimum. Allowing non-certified operators to run drug screens will dramatically increase the number of mistakes. Unfortunately, nobody will hear about most of those mistakes, since there is no certifying agency to oversee the process.

The exemptions listed above were intended to address certain concerns. For instance, hospitals and physician offices sometimes have an immediate need to determine if drugs are involved, since the presence of those drugs may interfere with medical treatment. This is the major need for rapid drug testing. All other exemptions, which allow rapid, unmonitored, unregulated drug testing, are for the convenience of the tester at the expense of the occasional innocent person being tested.

SAMHSA, the Federal government agency overseeing drug testing for Federal employees, DOT and FAA not only prohibits the use of on site testing devices but also requires that any lab doing drug screening must also perform the confirmatory test at the same location. The reasoning behind this is to help prevent abuses in the collection of specimens and the confidentiality of results, and to minimize any chance of mix-ups and storage problems.

The other major national laboratory certifying agency, the College of American Pathologists (CAP), also insists on positive screens being confirmed in the same facility as the screening test and also prohibits the use of on-site screening devices.

Many states have rules similar to SAMHSA and the CAP. The current Kansas statutes already allows laboratories to screen only and to send positives across town, or even out of state for confirmation. The possibility for misinterpretation and error increases as the number of people handling the specimen increases; especially if those people are untrained or minimally trained lay people.

HB 2758 states that testing must be performed by an operator trained by "the manufacturer or the manufacturer's designee". In practice, this "manufacturer's designee" will be the sales rep. Training will be minimal, corresponding to the amount of time available between sales calls. Information will be skewed to improve the attractiveness of the salesman's product line rather than presented in order to educate and inform.

There are a number of areas in which employers have need of testing, including pre-employment, random, reasonable cause and post accident situations. Drug testing can be abused in those situations unless there is sufficient oversight. Employers can target individuals based on personality conflicts, racial differences or a host of other reasons. An on-site test kit provides the employer (or his agent) the means to discriminate. Although HB 2758 says that positives must be sent to a certified lab for confirmation, that will not always happen. Employers will be able to purchase the kits directly from their manufacturer's sales rep, a situation that is open to abuse.

Drug testing should be performed by a certified laboratory that is totally removed from the company, isolated from any employer-employee relationship, so that any potential misuse of the results can be minimized. Hypothetically, an employer could run an on-site drug screen and claim that the result was positive. The employee could then be pressured into any number of questionable situations.

Certified laboratories are cognizant of and trained to oversee collections. The collection process involves verifying the identity of the donor, being familiar with common methods used to circumvent the collection process, preventing attempted adulteration, checking for dilution, properly completing chain of custody and properly maintaining specimens. Although these steps may seem simple to the uninitiated, the actual process is quite complex and cannot be properly accomplished by a data entry clerk assigned to run drug tests during the lunch hour.

In order for a confirmatory test to be valid, proper storage and chain of custody procedures must be followed. Certified laboratories have personnel who have been properly trained in storage and chain of custody procedures. This training emphasizes the need for refrigeration or freezing where appropriate and locked, secure, limited access storage. Any failure in either the storage or chain of custody brings in to doubt the identity of the specimen and the validity of the results.

When specimens are submitted to a certified laboratory, they are assigned a number and are "blind" to the analyst. The laboratory doesn't know who the donor is and is therefore under no pressure to obtain a specific result. Should this bill pass, an employer could assign his data entry clerk to run drug tests on everyone in the company.

There are a number of well-documented situations where a legal drug or an unknown substance causes a positive reading on a screening device. On confirmation, no illegal drug is found. If an employer obtains a positive response with an on site device and the confirmatory lab finds no drug, the individual will still be under a cloud of suspicion. Some people, both employers and fellow employees, will assume that a drug was used but was simply too low to qualify as a positive at the confirmatory lab. This may not be the case.

One common example is that drugs like Sudafed can cause screening positives but are not confirmed as illegal amphetamines by GC/MS. Another common problem occurs with opiates. The ingestion of foods containing poppy seeds can result in urinary levels of morphine as high as 1200-1500 ng/ml. The threshold used in many screening devices is 200 or 300 ng/mL and will demonstrate an opiate positive after the ingestion of these foods. Even if this specimen were sent to a lab, the morphine would be positive. A medical review officer (MRO) or competent toxicologist from a certified lab might determine that the morphine positive was not caused by the ingestion of an illegal drug. In the current situation, the employer will never know that the screen was positive, and will not receive a positive report since trained professionals have determined that the presence of the drug is legitimately explained. If HB 2758 passes, the employer will know of the positive screen. Even though the confirmatory lab reports that the morphine is not from the ingestion of illegal drugs, the employer may have doubts and those doubts can translate into discrimination against the employee.

The Sedgwick County Forensic Science Center has the ability to test its own employees and is a laboratory certified by the KDHE. Yet all drug testing for that facility are sent to an independent lab so that there is no pressure and no appearance of impropriety. This is as it should be.

Although positive tests will be required to be confirmed by a certified lab, there is no provision to insure that this is indeed happening. There is little incentive for an employer to spend the extra \$50-\$100 to send a positive for confirmation, since there is no record of the screening test being run and an individual can be refused employment without being told why.

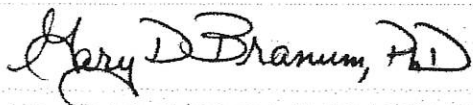
Since occupational medicine facilities will be allowed to use these on-site devices, they will no doubt be used for post accident testing. An accident occurs and the individual involved is taken to a medical facility for treatment and drug screening. A vast number of drugs, both legal and illegal, are capable of contributing to accidents. A certified laboratory is capable of detecting hundreds of drugs. An on-site device can detect approximately 10-20 drugs, and can absolutely identify none of them. A negative drug screen in a post accident situation is less than useless, since it can lead to improper treatment and can fail to detect the presence of a contributing drug, perhaps leading to a repeat of the situation in the future.

In summary, HB 2758 is moving in the wrong direction. A positive drug test has the potential of deeply affecting the lives of Kansas citizens. It can cost jobs, cause domestic strife, and

have an impact far beyond the simple appearance of a red line on a plastic cup. Because of the massive potential for harm from a positive drug test, whether a true positive or a false positive, the answer is not to loosen the regulations governing those tests. The answer is to insure that testing is done properly by certified laboratories that are staffed with professional toxicologists. Kansas should learn from the experiences of other states and the major certifying organizations and insist that all drug-testing laboratories be certified and that all drug testing be performed in certified laboratories. There are laboratory-certifying organizations currently in place that focus on all areas of drug testing. Medical examiner laboratories and some police laboratories can fall under the umbrella of the Society of Forensic Toxicologists (SOFT) laboratory certification program. Police laboratories such as the KBI can be covered by the American Society of Crime Lab Directors (ASCLD) program.

Kansas should insist on quality and professionalism. Kansas should not pass laws that make drug testing easier simply for the sake of convenience. If modifications to the current law (KSA 65-1,108) are made, they should be made to improve quality and donor confidentiality. Confirmation should be performed in the same lab as the screening test. Collection procedures should insure correct donor identity, collection, chain of custody, storage and shipping procedures. All laboratories should be required to obtain an appropriate certification. The use of on site testing devices by employers and occupational health facilities should not be permitted.

Sincerely,



Gary D. Branum, Ph.D.
Forensic Toxicologist

Testimony Presented to The House Committee on Health and Human Services on HB 2758, February 22, 2000

Presented by: Bill Combs, Technical Manager
Via Christi Regional Labs
3600 E. Harry
Wichita, Kansas 67218

I have a Bachelor of Science degree in Medical Technology with 28 years experience in the clinical laboratory. I am a registered Medical Technologist and Specialist in Chemistry with the College of American Pathologists. I worked ten years in Toxicology performing drug screens. Our Toxicology Lab currently performs 2000 employment and legal drug screens per month.

I respectfully would like to make the following points and raise some questions:

1. Laboratories who perform employment related drug of abuse testing are required to be certified by KDHE. Certified Laboratories are required to employ, for employment related drug testing, only technicians with a college degree in a laboratory related science. How can you now allow employers with no lab experience to perform testing?

2. Employers who test on-site are required to send positive specimens to a certified lab before they deprive a person of employment. This won't happen. The employer will not go to the time or expense of having positive specimens confirmed.

3. Who is going to enforce the section of the bill that requires employers to send positive specimens to a certified lab for confirmation? What is the penalty if they don't confirm?

4. Q: Who would want to pass a law that exempted employers from the regulations a certified lab must follow?

A: Vendors of point of care testing devices want the market opened up so they can sell directly to employers. Most real labs do not purchase their devices. Real labs use highly sensitive immunoassays for screening and follow up with a fool proof confirmation method. Vendors are driving this portion of the bill in order to open new markets.

5. A drug screen is a lab test. Would you want your employer doing your lab work if you had a medical problem?

6. A positive drug screen must be confirmed by GC/MS, have a valid chain of custody, and be collected according to minimum collection criteria in order to hold up in court. All these will go away when employers test on-site in the workplace. I reiterate; employers will not go to the trouble and expense of sending a positive screen to be confirmed. They will take action on the initial screen and no one will know the difference. Employees and applicants will have false positive drug results on their work record.

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**Testimony before the
House of Representatives
Committee on Health and Human Services**

February 22, 2000

My name is Michael Helbert. I am an attorney in Emporia, Kansas, and appear today on behalf of the Kansas Trial Lawyers Association and as a citizen of this state in opposition to House Bill No. 2758.

I believe "that the strength of our nation lies with the individual and that each person's dignity, freedom, ability and responsibility must be honored." I further believe that House Bill 2758 is in direct conflict with that principle. This bill would allow virtually "on demand" tests by any employer, at any time, for any reason, or no reason at all, on an employee. The potential for abuse is immense and obvious. In an age where matters of individual privacy are of utmost concern to our citizens, such a blanket authorization to conduct such unrestricted intrusions on our personal freedom should not be condoned. The present statute, as it exists, provides safeguards. This amendment would remove those safeguards.

Additionally, as a practitioner in the workers compensation field, I oppose the adoption of House Bill 2758. This bill is in direct conflict with K.S.A. 44-501 (d)(2)(C)&(D), and will create yet another unnecessary issue and conflict of law to be interpreted by the Workers Compensation Appeals Board and eventually the Kansas Court of Appeals or Supreme Court.

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K.S.A. 44-501 (d)(2)(C)&(D) are clear in that they provide protection to an injured worker when drug or alcohol testing are required, after the proper finding of probable cause is established, in that a licensed health care professional must be used to collect and label the sample, and the test be performed by a proper laboratory approved by the United States Department of Health and Human Services, or licensed by the Department of Health and Environment. This proper administration, collection, and labeling are protections in the chain of command and custody of the specimen, assuring the employee that the employer has no control over the testing itself, nor the chain of command.

Our position is that House Bill 2758 removes the protection for the employee by allowing administration, collection, and labeling of samples to be done by the employer, or a clinic specifically chosen by the employer. Simply put, it should be against public policy to allow an employer to accuse an employee of being injured as a result of drugs or alcohol, when the employer will be the one administering, collecting, and labeling the sample for analysis. This opens the door to unscrupulous employers, who, seeing an economic benefit in depriving an injured worker benefits he is due, can do so very easily when the employer is given the control over the chain of command of the very sample in question.

It is important that Kansans know that their representatives will not allow unnecessary intrusions into their privacy and employer intimidation. Please oppose this dangerous legislation.

AHA. Sarah Holbert / Article for McPherson Sentinel,

Indispensable is really the way one would describe these two staff members. Truly, they could be considered the most popular at each of their schools, both in the students' eyes and in the eyes of their fellow workers. Like all education-related work, the jobs these two do are hard and, at times, exhausting. And, of course, they're always friendly and available for a hug and a lick.

Tahoe and Atom, both golden retrievers, are therapy dogs. Tahoe works at Soderstrom Elementary School and Atom at Marquette Elementary. Large, warm, furry balls of unconditional love, evidence has shown that these dogs help relax angry students, comfort upset students, and even help develop correct behavior. Marsha Rowlander, counselor at Soderstrom is "just convinced that its one more small thing we can do to make [school] a safe place."

As Douglas Jerrold, English dramatist and editor, said "It is a beautiful necessity of our nature to love something." Therein lies the incredible part that these dogs play in the schools. Where students often find it difficult to be always at ease in the presence of teachers and administrators, therapy dogs provide a non-threatening, non-disciplinary type of acceptance and affection which is not always possible in the teacher-student relationship. Thus, in the folds of the soft golden fur, students can find calm and feel loved.

Joyce Peterson, counselor at Marquette Elementary, stresses that Atom is to be for everyone at the school. He is available for everyone's joy and it is apparent that this is the case. As he walks down the hall students and teachers alike rush to hug him, pet him and receive reassurance from his soft brown eyes. Rowlander shares how Tahoe vastly improves the school climate, how happy it makes kids to have a dog around. Both Peterson and Rowlander have witnessed the amazing phenomenon wherein the dogs sense and respond to hurting children, literally and figuratively helping to dry their tears.

Contrary to what some had feared, the dogs are not a distraction. Trustworthy and well behaved, staff at both elementary schools have been very accepting of these new hirsute faces. As a matter of fact, most aren't quite sure what they'd do without them! Betty Amos, principle at Marquette Elementary says that Atom "is such a positive. [He helps kids] feel good about school."

The authorities on how the dogs are beneficial, though, are the kids themselves. Letters written by the children to Tahoe shared the following feelings "when I feeling gloomy and when Tahoe comes in my day gets better...", "I love you because she makes me happy when I get put down", "we are very lucky to have you visit us", "When Mrs. Rolander is visiting and your with her you make me feel better."

It is evident that these dogs have an impact on the children. Within the big brown eyes and soft golden fur these kids have discovered an unending fountain of love and acceptance and have, indeed, become the better for it.

written by Suzanne W. Shugart HHS
McPherson Sentinel 2-22-2000
Arch# 15

Susan Grace, PT
1810 Kendrick Lane
El Dorado, Kansas 67042
Phone: (316) 320-7629
Fax: (316) 322-7313

February 21, 2000

Chairman Boston and Members of the Health and Human Services Committee:

I am writing to ask for your support of HB 2924 regarding the use of specially trained animals; amending K.S.A. 39-1101, 39-1103, 39-1105, 39-1107, 39-1108 and 39-1109 and repealing the existing sections.

This legislation expands the definition of assistance animals to include not only Guide dogs (animals), assisting the visually impaired; hearing dogs (animals), assisting the hearing impaired; and service animals, assisting physically disabled persons but also seizure alerting dogs (animals), assisting those with seizure disorders; emotional support animals, assisting the emotionally disabled; professional therapy dogs and any animals in training for the above.

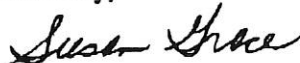
I have witnessed first hand the invaluable assistance afforded to disabled individuals by assistance animals, not only through my profession as a physical therapist but through my personal experience with my professional therapy dog. These animals enhance the quality of life of disabled persons by allowing them to live more active, productive lives and function more independently. Many of these persons could not live safely on their own without the assistance of their dog or other specially trained animal.

Each dog or animal certified for assistance work is required to pass a rigorous public access test. The qualifications for passing are quite stringent. Having trained and certified my own therapy dog, I can attest to the fact that these animals are well-behaved and controlled in public environments and are welcome guests in most settings. Owners are counseled to be responsible as well.

Oftentimes disabled individuals cannot function in public *without* the assistance of their dog. In order to afford the disabled person equal access in all situations, their animal must have the same access rights in order to accompany them.

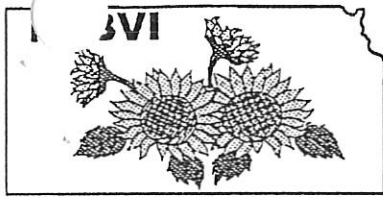
Please pass HB 2924 to allow equal rights and access to persons with all disabilities by allowing the same access to the animals that assist them.

Sincerely,



Susan Grace, PT

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2-22-2000
Atch #16



Kansas Association for the Blind and Visually Impaired, Inc.

PO Box 292, Topeka, KS 66601, (785) 235-8990
924 S. Kansas Ave., Topeka, KS 66612, Toll Free in KS (800)799-1499

Points for Consideration in Opposition to HB2924:

Testimony by Ann Byington, Education Chair, Kansas Association for the Blind and Visually Impaired, Inc.

BACKGROUND: I have been a guide dog user for nearly 30 years. My current guide dog, Cleo, was trained by Kansas Specialty Dog Service here in Kansas. Cleo is my second dog from this training facility. I have also had two guide dogs trained by Guide Dogs For The Blind in California.

I know quite a bit about guide dog access laws in Kansas because I was instrumental in expanding KSA 39-1101 et seq through consumer and personal experience of going to court in a guide dog access case, and because I worked with the Kansas Legislature to add some clean-up language to this body of law a few years ago.

GUIDE DOG ACCESS HISTORY: I may seem over-protective of current guide dog access rights, but my position has been gained through experience of how hard blindness advocacy organizations have worked to obtain every hard fought access right we have achieved. It has taken at least 50 years of lobbying efforts. These most recently culminated in a victory won by Guide Dog Users International, an advocacy group of which I am a member, in a suit against the State of Hawaii, which would not allow guide dogs from the United States Main Land to come within its borders at all. A six month quarantine was required. The victory in this suit finally allowed guide dog access for the first time throughout the entire United States.

ISSUE 1: USE OF THE WORD "HIDDEN" IN DEFINITION OF DISABILITY

1. For the past 50 plus years, guide, service and hearing-ear dogs have received specific training to provide specific services to their handlers. When requesting access to a restaurant, hotel, or other public accommodation, the the relationship between disabled person and service dog has been obvious to the restaurant owner, hotel operator or bus driver. Historically, too, persons using these dogs have been given a copy of the KSA. Statutes, a picture I.D. similar to a driver's license, as well as list of those persons responsible for providing training of the person/dog team.
2. By offering the same broad right of access to person/dog teams whose disability and the functions for which the dog has been trained are not obvious to the general public, i.e., "hidden", the restaurant owner, public transportation provider, hotel operator, is given very confusing information about any person/dog team.

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ISSUE II: INCLUSION OF THE TERM “GUIDE OR SERVICE ANIMAL”

1. In a somewhat humorous vein during the past several years, we have read of guide weasels with incredible telepathic abilities to protect their blind handlers from being hit by bricks falling off of buildings which they happened to be passing. More recently, a couple in South Carolina are avidly proposing miniature horses as useful guide animals. They propose dealing with these animals’ defecation problems by diapering them. Sharing one’s space in a restaurant with a defecating miniature horse, diapered or not, doesn’t seem very appetizing.

2. Most guide dog, service dog and, presumably, hearing-ear training programs spend a great deal of time teaching the person/dog team to meet certain behavioral standards when in public. These include keeping the dog under verbal and physical control, not allowing sniffing, growling, barking, lunging or other aggressive behavior toward children and/or strangers, teaching the dog to ignore and certainly never to sniff foods on plates or packaged in displays, teaching the dog/person team to exit and enter buildings, vehicles, stairs, escalators or elevators in a safe but unobtrusive way. Assistance Dogs International provides certification that guide/service dogs can appropriately handle all of these activities by offering the dog/person team the opportunity to be evaluated and rated by an outside person who is not part of the training staff of the company or school. While many guide dog schools do not provide or use this certification tool, graduation from them carries the implication that such training and testing has been successfully accomplished.

ISSUE III: INCLUSION OF THE TERM “MINIMAL PROTECTION” SEC 2.

1. The guide vs. guard distinction is usually a well-kept but secret but a very real concern when selecting, training and placing a guide or service dog. In today’s world, handlers are careful not to acknowledge the difference between guiding and guarding. However, animals with any aggressive behaviors focused on protecting themselves or their handlers put themselves and other dog/person teams, as well as the general public at risk. While acknowledging the loyalty and protectiveness develops as the result of the human/animal bond, it should not be the focus of training. Such protectiveness is not the same as “selective disobedience”, a trained response which allows a guide dog to keep it’s handler from stepping in front of moving traffic.

ISSUE IV: SAME CONCERNS IN SEC. 3 “HIDDEN DISABILITY”

1. If a disability is “hidden”, then how is the service provided by the assistance animal determined or trained?

2. If the disability is “hidden”, how is the dog or animal trained to deal with it and by whom? How is an evaluation done to indicate that such training has occurred?

3. All of these questions are further fodder to confuse those responsible for providing

access to persons with disabilities and their dogs.

ISSUE V: CERTIFICATION

1. To my knowledge, the only two states which have a mechanism for certifying trainers and graduates of guide dog schools are New York and California.
2. Such a requirement that the secretary of health and environment provide rules, regulations, identification cards and/or tags simply introduce another level of beauracracy into the situation. There is only one guide dog training program in Kansas; many blind people go out of state to get their dogs.
3. It is doubtful that the 15 or so other training programs are going to submit to a state-defined certification process. Such a requirement will not enhance access for person/dog teams, but will, in fact, further restrict it. **ISSUE VI: RIGHTS/RESPONSIBILITIES**

- 1. The right of accewss for a disabled person and their dog is not one to be taken lightly as it impacts all facets of life.**
- 2. Such teams should be well-trained and prepared at all times to act as ambassadors for themselves and future teams.**
3. Any efforts made to re-define those animals providing service, the services provided and the persons served should be addressed in narrowest, rather than broadest terms.

From: "Brad & Kristy Shrader" <kbshrader@nckcn.com>
To: <freeborn@house.state.ks.us>
Date: Mon, Feb 21, 2000 6:52 PM
Subject: testimony for public access 2-21-00

Testimony for the Health and Environmental Services Committee:

I am unable to testify in person, but would like my written testimony included with the public access for seizure alert dogs and professional working therapy dogs bill. I have professional working therapy dogs that work regularly in my classroom.

I have witnessed many times the transformation that takes place in a person's life, in school classrooms, in nursing home facilities, and in my own heart when a pet becomes involved. It is one of the most exciting and rewarding experiences I have ever felt, seen, heard or read about.

My own experience was with my German shepherd, Magic, who earned her name consistently throughout her life with young and old alike. With Magic I was privileged to see the softening of hardened hearts, voices coming from the voiceless, strengthening of the physically challenged, growing assertiveness from the passive and aggressive, unconditional love given to those who have felt unloved, and pure happiness in the faces of those who worked and longed for it.

Magic was an inspiration to me and a gift to many. Without the support of many people and places I would not have been able to continue the quality of her training and the training of many other dogs I have worked with and / or donated for assistance to others. There have been occasions I have not been able to take a dog with me in therapy situations due to the weather or time span of the dog being locked in a vehicle because I was not allowed to take the therapy dog into a place of business or on a bus.

Public access rights for professional working therapy dogs is imperative to continuing training and necessary in some situations for the handler in order to maintain the best interest and spirit of the dog. For those who are gaining assistance from the dog (such as students) it is very exciting to see their "friend" at ball games and in grocery stores where they can introduce them to family members and even get another hug from their canine friend.

Pet assisted therapy is truly a remarkable addition to our society's homes, schools, hospitals, and nursing facilities. Public access rights for professional working therapy dogs is imperative to continuing the therapeutic process and growth of the persons involved and the therapy dog team.

-Kristy J. Shrader

Belleville Middle School

Teacher of Behavioral Disordered and Learning Disabled children

H&HS
2-22-2000
Atch# 18



Kansas
**SPECIALTY
 DOG**
 Service Inc.

P.O. Box 216 - 124 W. 7th
 Washington, KS 66968
 Ph. 785/325-2256

February 22, 2000

Rep. Boston, Committee Chair
 Re: HB 2924
 Kansas Legislature
 Topeka, KS

Dear Representative Boston,

I would like to take this opportunity to ask that your committee table discussion of proposed HB2924. The changes proposed in this bill would be very difficult on the blind, deaf and disabled population of Kansas, particularly those choosing to use a canine assistant.

Kansas Specialty Dog Service was the first canine assistance non profit program to locate in Kansas. We started with the aid of an EDIF grant and the support of the Kansas Rehabilitation Department. We were the first program in the U.S. to place both guide dogs for the blind and visually impaired and service dogs for the physically disabled from within the same facility.

There are guidelines established for standards and ethics of the each program, and minimum requirements for training as well as final certification requirements already in place through Assistance Dogs International (ADI). ADI is a coalition of all the member programs world-wide. The requirements for a program are to meet or exceed these guidelines in order to remain a member. They also have monitoring systems in place to insure these are abided by and a system to deal with the member programs that do not. Unfortunately, there are a couple of "spin-off" programs of KSDS that have chosen not to become members of ADI because they either do not want to or can not meet the criteria set forth. KSDS has been and remains a member in good standing of Assistance Dogs International. We would be glad to share with you and the committee the ADI standards and ethics and the minimum training requirements of both the people and the dogs.

Over the last 70 years the blind community has fought hard for access laws with their guide dogs and the disabled and deaf were added and have been updated in the last 10 years. It still remains very hard for many businesses to allow them in with their guide or service dog. We can put them into jeopardy by adding to the law any animal or person claiming to have a "hidden" disability. Established programs can not take on the certification of "privately" owned pets because of the liability issues at hand and the safety of the person and "service animal."

We would welcome the opportunity to visit with you and committee members about the issues with HB2924. I also would like to extend an invitation for you and the committee to visit KSDS in Washington, Kansas. We are very proud of our start and our growth over the last 10 years. I am confident that Rep. Sharon Schwartz and Senator Janice Hardenburger would help arrange a visit. Thank you for your time in this matter. I will look forward to hearing from you.

Sincerely,

William F. Acree
 Exec. Director/Pres.



CLINICAL REFERENCE
LABORATORY

Date: February 22, 2000

To: Chairman Boston and Members of the House Committee on
Health and Human Services

From: Greg Capps, Toxicology Marketing Director
Clinical Reference Laboratory

RE: House Bill No. 2758

Clinical Reference Laboratory is a Kansas based Federally (SAMHSA) certified drug testing laboratory. We perform over one million urine drug tests a year in the current lab-based model.

Two of CRL's key values are a commitment to having a client focus and to providing the highest quality results. Interaction with our clients has made it clear to us that there are significant economic benefits associated with on-site (or rapid) tests. Kansas employers deserve to have access to this technology.

After studying the devices available in the market, CRL is also convinced that FDA cleared on-site devices are accurate enough to provide a quality screening result. It is also possible to develop procedures for the use of these devices that protect the rights of the donor. Bill No. 2758 addresses all of these issues.

Consistent with our company values, we submit these comments in **support** of Bill No. 2758. We do, however, suggest a modification in the language of the bill.

We suggest that all references to URINE be struck from the language of the bill. The marketplace is changing rapidly and additional technologies are under development that would allow for on-site drugs of abuse testing through oral fluids (saliva). Products utilizing oral fluids are already being sold in the market. These devices/instruments should also be subject to FDA approval as indicated in the bill.

We appreciate your work on this bill. If we can be of help in anyway, please contact me at 1-800-445-6917.

HHS
2-22-2000

JO ANN POTTORFF
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TESTIMONY ON HB 2900

Osteoporosis is a disorder in which bone mass is gradually lost in the skeleton, causing the bones to become progressively weaker. This disease threatens 25 million Americans each year, costing \$27 billion daily. In the state of Kansas, 11% of the population has some degree of osteoporosis. One in two women and one in five men will develop fractures as a result of osteoporosis. Detection is the first step to prevention. Bone Density Scans measure bone density in various sites of the body. The bone density test can:

1. Detect osteoporosis before a fracture occurs.
2. Predict your chances of fracturing in the future.
3. Determine your rate of bone loss and/or monitor the effects of treatment if the test is conducted at intervals of a year or more.

It is in the best interest of the patient, the healthcare provider, and the health plan to insure that the highest quality standards are maintained in the use and interpretation of bone densitometry. Bone density testing is a skill that requires meticulous attention to detail by the technologist performing the test and the physician interpreting the test. This skill is best acquired through training by experts and best demonstrated by means of passing a certification exam. Bone density testing is not taught in radiology training programs. All physicians, including radiologists, need training and certification.

The International Society for Clinical Densitometry certification is recommended as a requirement for reimbursement of bone densitometry for the following reasons:

1. The patient, the referring physician, and the health plan have a right to expect documentation of proficiency with anyone providing services in the complex area of bone densitometry.
2. Patient care is optimized when bone densitometry interpretation and recommendations are appropriate for the technology used and the site being measured.
3. A well-trained densitometrist is able to suggest appropriate intervals for bone density testing, considering the precision error of the instrument used and the expected change in BMD (bone mineral density) for the therapy used, thereby avoiding overuse of this technology.

Licensing of persons performing Bone Density Scans would facilitate accurate results allowing the public at-risk to take preventative measures against osteoporosis.

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KANSAS BOARD OF HEALING ARTS


BILL GRAVES
Governor



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MEMORANDUM

TO: House Committee on Health and Human Services

FROM: Lawrence T. Buening, Jr. 
Executive Director

DATE: February 22, 2000

RE: **House Bill No. 2900**

Chairman Boston and members of the Committee, thank you for the opportunity to appear before you and present the concerns of the Kansas State Board of Healing Arts pertaining to the provisions of House Bill No. 2900. At its regular meeting February 12, 2000, the Board reviewed H.B. No. 2900 and voted unanimously to have these concerns expressed to the Legislature.

If enacted, H.B. No. 2900 would restrict the performance of any bone density test to those persons currently certified by the International Society of Clinical Densitometry ("ISCD"). A person who performed a bone density test and was not so certified would be guilty of a class A misdemeanor. Further, any uncertified M.D., D.O., or D.C. who performed a test would not only be guilty of a crime, but would also be guilty of unprofessional conduct for which disciplinary action could be taken against their license to practice.

The Board is concerned that requiring certification by ISCD as a prerequisite to performing a bone density test in Kansas constitutes an unlawful delegation of legislative power to this organization. See Gumbhir v. Kansas State Bd. Of Pharmacy, 228 Kan. 579 (1980) and Sedlak v. Dick, 256 Kan. 779 (1995). Legislative power of the state is vested in the House of Representatives and the Senate under Article 2, Section 1 of the Kansas Constitution and may not be delegated to nongovernmental associations or groups.

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

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Secondly, restricting performance of bone density tests to only those certified by ISCD would drastically reduce access of Kansas citizens to this valuable means of determining a person's risk for osteoporosis. According to its Web page, ISCD was founded in 1993 and claims to have 3000 members in 25 countries. However, it appears only 1/3 of these participate in the certification process. I have been unable to determine how many persons practicing in Kansas have ISCD certification, but I believe this number is very small compared to those who are currently performing bone density tests.

The Board acknowledges it is important that persons who perform bone density tests be qualified to do so. This is true with every diagnostic test and therapeutic procedure provided in the health care arena. However, to date, the Legislature has not required health care professionals to show certifiable proof of competency prior to performing every test and procedure. Rather, it is expected that health care providers will limit themselves to those tests and procedures for which they have appropriate education, training and expertise.

In conclusion, the Board requests that you not recommend H.B. No. 2900 favorably for passage by the House as a whole. Thank you for allowing me to appear before you on behalf of the Board. I would be happy to respond to any questions.



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February 22, 2000

The Honorable Gary Boston
Kansas State House of Representatives
State Capitol

SUBJECT: Legislative Hearing on House Bill No. 2758, A Committee on Health & Human Services

Dear Chairman Boston and other members of the Committee:

I wish to provide a brief written testimony in regards to house Bill No. 2758, regarding a revision to the Kansas State law concerning drugs of abuse testing. I am Medical Director of Stormont-Vail Regional Health Center Laboratory and President of Topeka Pathology Group and wish to provide testimony as an individual. I was notified only a few days ago regarding this Bill and unfortunately will not be able to attend the hearing. I feel, however, that it is important for the Committee to hear several issues that may not be brought up during verbal testimony.

As a whole I support the suggested conceptual change in this law, as new technologies have been produced that make drugs of abuse screening tests much more user friendly and reliable. As a laboratorian I feel that all tests of this nature should be performed by adequately trained personnel. I believe the proposed language does attempt to address this issue in Section 7A. Further, I strongly feel that confirmatory testing by an alternate methodology such as gas chromatography-mass spectrometry (GC-MS) is necessary in all cases of positive screening results, before any of the actions listed in 7C take place. The wording in line 14 appears to address this, however, I am unclear if "a confirmatory test" will always equate to GC/MS methodology. I would refer to the Secretary of Health for this opinion. I feel it is important for the Committee to clarify this issue prior to their vote of this Bill as a whole.


As currently suggested, this Bill would create a dual system of oversight for drugs of abuse screening. The traditional medical laboratories would still be held to the Clinical Laboratory Improvement Act of 1988 (CLIA-88) as well as state laws and numerous additional Kansas Department of Health and the Environment (KDHE) regulations. The same and similar screening tests performed at the work place, however, would be virtually free of these regulations aside from those placed in this Bill. Although the current Bill's provisions are warranted, there appears to be no mechanism to monitor adherence to these regulations. As in practice, without any mechanism for monitoring compliance, these would more likely be regarded as "suggestions" from the Secretary of KDHE. It further seems counterproductive to closely monitor the professional medical laboratory, who is already being monitored by other entities, yet leave the untested and unregulated test facilities to their own recognizance. Especially since they lack the knowledge of approved quality assurance and quality control activities, commonplace in medical labs. This dual level of service is clearly not appropriate for the people of Kansas. One could argue that if a dual system is mandated, in fact, the true measurement of quality will be at the lowest common denominator (i.e. non-laboratory testing). They could further argue that Legislature should consider abandoning KDHE's involvement in any drug testing in total, letting federal CLIA standards control this area exclusively. I personally feel that would not be wise. Instead I would suggest that this law request

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a streamlined registration of all businesses providing drug of abuse testing with the KDHE, with accompanying periodic re-registration and possibly accompanying nominal registration fee to offset this cost. This would give the Secretary of KDHE a method to monitor the prevalence of these tests and would also provide a mechanism for assuring that the conditions mandated in this Bill are being fulfilled at these testing sites.

Again, I apologize for my absence during testimony over this important subject. Should you or any committee members have any further questions feel free to contact me at 785-354-6963.

Sincerely,



Mark S. Synovec, M.D.
Medical Director
Stormont-Vail Regional Health Center Laboratory

BRAD SMOOT

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**Statement of Brad Smoot
Legislative Counsel for Hoffmann-La Roche, Inc.
House Health & Human Services Committee
Regarding 2000 HB 2758
February 22, 2000**

Mr. Chairman and members of the Committee, I am Brad Smoot, local counsel for Hoffmann-La Roche, Inc. and its subsidiary Roche Diagnostic Systems, Inc. RDS is the manufacturer of on-site drug screening kits used by thousands of employers, drug treatment programs, correctional institutions and probation/parole offices nationwide. New technology developed in the last several years permits the accurate and efficient screening of workers and others for alcohol and illicit drug use. Our products are approved for commercial distribution by the U.S. Food & Drug Administration. Thousands of our kits are used each year by Kansas businesses, large and small, as pre-employment, random and post-accident tests for the protection of co-workers and the general public. Government use includes the U.S. Postal Service, the Kansas Department of Corrections and the Kansas Racing and Gaming Commission.

On-site testing provides immediate and inexpensive information to employers that cannot be provided through laboratory testing which often takes several days and costs several times what screening devices cost. Of course, in the vast majority of cases, on-site screening tests are negative, demonstrating the absence of illicit substances and enabling the worker to go to work. Should a positive result be found, the test is forwarded to a laboratory approved by the Kansas Department of Health & Environment or a second test is performed with the sample submitted to an approved lab.

In 1997, in response to a request from the Chair of the Senate Public Health & Welfare Committee, the Kansas Attorney General opined that state law did not authorize the Department of Health & Environment to regulate or prohibit employer use of on-site screening tests. See Kan. Atty Gen. Op. No. 97-96. However, screening tests are referenced in KDHE regulations in conjunction with samples submitted to licensed laboratories. See K.A.R. 1999 Supp. 28-33-12. Consequently, some confusion has arisen as to if and when such screening devices may be used. HB 2758 attempts to clarify current law and practice, recognizing the use of such devices at places of employment or occupational health clinics and granting authority to the KDHE to adopt rules and regulations for the collection, shipping, chain of custody and confidentiality of samples which test positive and are submitted for laboratory testing.

With the clarifying amendments offered by Representative Ray, RDS supports the enactment of HB 2758. I would be pleased to respond to questions.

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LEGISLATIVE TESTIMONY



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HB 2758

February 22, 2000

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Health and Human Services

by

Terry Leatherman
Vice President – Legislative Affairs

Mr. Chairman and members of the Committee:

My name is Terry Leatherman. I am Vice President of Legislative Affairs for the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to comment on HB 2758.

KCCI does not support or oppose the legislation before you today. However, Kansas business clearly understands the need to rid their workforce of drug misuse. It is a highly appropriate business practice. Numerous studies make it clear that drug and alcohol abuse produces a host of problems for business owners and managers. As a result, businesses are increasingly turning to

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 2,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 48% of KCCI's members having less than 25 employees, and 78% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

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cedures and policies to make clear to the drug and alcohol abuser that they will not be welcomed at their place of business.

The importance of this issue prompts KCCI's comments regarding HB 2758. The Kansas Chamber would urge caution towards advancing legislation that would lessen business' resolve to identify potential drug and alcohol abusers. Finally, if there is a need to have greater governmental oversight into business practices involving drug testing, the Kansas Chamber would welcome the opportunity to involve our members in developing legislative guidelines.

Mr. Chairman, thank you for the opportunity to comment today on HB 2758. I would be happy to respond to any questions.