

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 March 5, 2001 in Room 210 Memorial Hall

All members were present except: Representative Geraldine Flaharty, Excused
Representative Lana Gordon, Excused

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Renae Jefferies, Revisor of Statute's Office
June Evans, Secretary

Conferees appearing before the committee: Chris Collins, Director of Government Affairs, Kansas Medical Society
Dwight Allen, Executive Director, Medical Society of Sedgwick County
Kevin J. Robertson, CAE, Executive Director
Michael C. Helbert, Attorney, Emporia, KS

Others attending: See Attached Sheet

The Chairperson welcomed Representative Frank Miller who replaced Representative Brenda Landwehr on the committee.

The Chairperson opened the hearing on **HB 2456 - Physician-patient privilege where attempt is made to obtain prescription-only drugs through fraudulent means.**

Dr. Bill Wolff, Legislative Research Department, gave a briefing on **HB 2456.**

Chris Collins, Director of Government Affairs, Associate General Counsel, Kansas Medical Society, testified as a proponent to **HB 2456** at the behest of the Sedgwick County Medical Society in order to clarify existing privilege laws. Fraudulent prescription drug seekers are a pervasive problem for physicians and other health care providers. Individuals steal prescription pads, seek pain medications from multiple health care providers and pharmacies, falsely identify themselves as health care providers to authorize a refill by pharmacists, and/or contact an attending physician's covering physician to request refills for pain medication. What these people are doing is illegal. This is a frequent means for securing medication for sale on the street or for satisfying a life-threatening addiction (Attachment 1).

Representative Lightner asked how many states have this same law?

Ms. Collins said she did not know but would provide that information.

Dwight Allen, Executive Director, Medical Society of Sedgwick County, Wichita, a proponent to **HB 2456** testified that through cooperative and collaborative efforts to reduce the amount of prescription-only drugs being obtained under false or misleading pretenses, the practicing physicians in Sedgwick County, the Sedgwick County pharmacists, representative of the Sedgwick County District Attorney's Office and the Narcotics Division of the Wichita Police Department, support and approve **HB 2456.** Through this bill, additional immunity would be provided to those persons who are in a position to report these deviancies and thus increase the number of reports by reducing the fear of potential malicious prosecution relating to right of privacy, defamation of character and breach of confidentiality issues. Mr. Allen shared their confidential pharmacy information report form they use (Attachments 2 & 3).

Bob Williams, Executive Director, Kansas Pharmacists Association, testified as a proponent to **HB 2456** as it would provide health care providers immunity from liability if, in good faith, they provide to another health care provider or to a law enforcement agency information regarding an attempt by an individual to

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 210, Memorial Hall at 1:30 p.m. on March 5, 2001.

fraudulently obtain prescription only drugs. Currently, when a pharmacist receives a “questionable” prescription from a patient, the pharmacist would first contact the prescriber to verify the authenticity of the prescription. If the prescriber indicates he/she did not write the prescription, the pharmacist refuses to fill the prescription and likely contact other pharmacists in his or her community regarding the attempt to obtain prescription medication with a false prescription (Attachment 4).

Kevin J. Robertson, CAE, Executive Director, Kansas Dental Association, testified in support of **HB 2456**, stating like physicians, dentists that have qualified for a DEA license have the authority to prescribe medication within their area of expertise depending on the category of license they have. Dentists too are often bombarded by fraudulent requests for prescription medication. Often these requests come in the middle of the night or on the weekends when the abuser thinks he/she can best take advantage of a foggy memory and lack of proper records to con the dentist into simply phoning in a prescription. Dentists are generally aware of these tactics and are on guard against them, yet, attempted abuses persist. **HB 2456** is a positive and necessary step to allow physicians, dentists, and pharmacists to report such suspected abusers without fear of liability for doing such. Without this ability, the abuser can simply make the rounds calling any healthcare provider without fear of recourse until he/she is finally able to con an unsuspecting or overly trusting provider into writing a prescription (Attachment 5).

Michael C. Helbert, Attorney, Emporia, testified as an opponent to **HB 2456**, stating there are four basic privileges that have enjoyed universal respect since the birth of our country. Those privileges are the attorney-client privilege, the penitential privilege, the physician-patient privilege and the marital privilege. Consequently, we all should be cautious when we tread upon such time-honored principles. All of these privileges depend upon one thing. The complete belief and trust that any communications between a citizen and his or her doctor, lawyer, priest or minister, and his or her spouse would be treated as confidential and can not be revealed to anyone.

This bill is an intrusion into the physician-patient privilege. This is proposed as a means of stopping the prescription of drugs without the necessary medical foundation for their use. The bill is designed to assist in the prosecution of doctors and patients who are prescribing or using pain killers and mind altering medications. This legislation could drive a wedge between the doctor and his patient by authorizing not only the doctor, but any member of his staff to reveal this problem, without restriction, to any other health care provider or law enforcement. The bill does not define what is misleading information. Pain is a subjective complaint. There is no test or diagnostic tool to measure the pain that a patient is experiencing.

This bill contains a requirement of good faith, but it does not adequately describe the facts necessary to establish good faith. Instead, it creates a subjective standard that would allow each health care provider to make his or her individual decision concerning whether a person is obtaining or attempting to obtain prescription drugs fraudulently. This bill would create a situation where the mere request for anti-anxiety medication could result in a permanent black mark on a person's medical records and it would do so with immunity for the person that put the black mark there.

If we, as a society, are concerned about our right to privacy and the sanctity of our communications with our doctors, we cannot allow such information to be used, and not hold the person responsible for its publication accountable. It is firmly believed that this is legislation that has the potential to cause irreparable harm to the medical consumers of this state (Attachment 6).

The following proponents provided written testimony: Mike Taylor, Government Relations Director, City of Wichita (Attachment 7); Carolyn Gaughan, CAE, Executive Director, Kansas Academy of Family Physicians (Attachment 8); Charles L. Wheelen, Kansas Association of Osteopathic Medicine (Attachment 9).

The Chairperson closed the hearing on **HB 2456**.

Representative Welshimer moved and Representative Morrison seconded approval of the minutes of Feb 6, 7, 8, 12, 13, 14, 15, 19, 20 and 28. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 210, Memorial Hall at 1:30 p.m. on March 5, 2001.

The meeting adjourned at 3:10 p.m. and the next meeting will be March 7.



KANSAS MEDICAL SOCIETY

To: House Health and Human Services Committee

From: Chris Collins
Director of Government Affairs
Associate General Counsel

Date: March 5, 2001

Subject: HB 2456: Obtaining Prescription Medications by Fraudulent Means

The Kansas Medical Society appreciates the opportunity to appear today in support of HB 2456. The Kansas Medical Society requested introduction of this bill at the behest of the Sedgwick County Medical Society in order to clarify existing privilege laws.

As indicated in the testimony you will hear today by Dwight Allen, the Executive Director of the Sedgwick County Medical Society, fraudulent prescription drug seekers are a pervasive problem for physicians and other health care providers. Individuals steal prescription pads, seek pain medications from multiple health care providers and pharmacies, falsely identify themselves as health care providers to authorize a refill by pharmacists, and/or contact an attending physician's covering physician to request refills for pain medication. What these people do is illegal. This is a frequent means for securing medication for sale on the street or for satisfying a life-threatening addiction. The Sedgwick County Medical Society has implemented a program to enhance communication between health care providers and, when warranted, law enforcement, to halt such illegal activity. You will further hear from Mr. Allen about the proliferation of reports of such activity that the program has received.

HB 2456 is necessary legislation for several reasons. The existing physician-patient privilege is inadequate to protect all health care providers involved in the Sedgwick County Medical Society program. K.S.A. 60-427(h), the statute creating the physician-patient privilege states, "Providing false information to a physician for the purpose of obtaining a prescription-only drug shall not be a confidential communication between physician and patient and no person shall have a privilege in any prosecution for obtaining a prescription-only drug by fraudulent means under K.S.A. 21-4214 and amendments thereto." Regrettably, the explicit protection found in the above-referenced statute applies only to physicians. It does nothing to protect the numerous other health care providers who are involved in the prescribing and dispensing of prescription drugs, such as dentists, pharmacists, physician assistants and nurses. Unfortunately, this limited protection of only one group of health care providers impedes the effectiveness of programs like that of the Shawnee County Medical Society. Providers are understandably reluctant to participate in light of the very real danger of prosecution for breach of confidentiality or defamation.

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HB 2456 also ensures that health care providers sharing such information are immune from civil liability for the reports that they make. However, the health care community does not stand before you today seeking total immunity for their actions. This bill contains some very important checks on health care providers' dissemination of such information. For example, immunity is only applicable to those health care providers who provide such information in good faith and who reasonably believe the information is linked to illegal activity.

You will doubtless hear concerns raised today regarding the protection of patient confidentiality. This consistently remains a paramount priority in all legislative issues addressed by the Kansas Medical Society. We would respectfully suggest that the legislation before you for consideration today clarifies and strengthens existing privilege laws. HB 2456 actually bolsters patient protections by ensuring that information shared is done so only in good faith. The bill, as written, goes far to ensure that the confidentiality of patients is compromised only when there is a reasonable likelihood that the patient is engaged in illegal activity.

Drug seekers are currently able to capitalize on a grey area in the law that prevents health care providers from sharing information. The current law works to ensure that the concerned health care providers who participate in worthwhile programs like that of the Sedgwick County Medical Society do so only at their own peril. For the foregoing reasons, we respectfully urge the committee to report HB 2456 favorably for passage. Thank you for your time and consideration.

MEDICAL SOCIETY of SEDGWICK COUNTY

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March 5, 2001

Mr. Garry Boston, Chairman
House Health and Human Services Committee
State Capitol
Topeka, KS 66612

Dear Mr. Chairman:

I appreciate the opportunity to appear before your committee today and speak in support of HB 2456.

Through cooperative and collaborative efforts to reduce the amount of prescription-only drugs being obtained under false or misleading pretenses, the practicing physicians in Sedgwick County, the Sedgwick County pharmacists, representatives of the Sedgwick County District Attorney's office and the Narcotics Division of the Wichita Police Department, support the need and approval of HB 2456.

Through this sharing of information program that was initiated in 1992, suspected attempts to obtain these types of drugs, such as Lortab, Oxycontin and Percocet, are reported to the medical society. In turn, reports are faxed in accordance with established guidelines to all pharmacies in Sedgwick County and through the District Attorney's office to law enforcement agencies. This distribution process takes approximately one hour. The operational costs of this program are borne by the medical society.

During its first year of operation in 1992, only 18 reports were filed. This number has increased annually, reaching a high of 217 in 1998, 183 in 2000 and 30 through February of 2001. Persons obtaining drugs through these scams are very talented in what they do. The majority of filed reports come from physicians, pharmacists and dentists. The main reasons for initiating reports result from;

- Stolen prescription blanks and or altered prescriptions
- Persons seeing multiple physicians and pharmacies and receiving the same drugs
- Persons calling a pharmacist identifying themselves as a physician or a nurse and authorizing a refill
- On weekends, persons contact the attending's covering physician and request a refill or help in managing a painful condition.

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Although the program has had success in obtaining its goal of reducing the incidence of obtaining prescription-only drugs under false pretenses, passage of HB 2456 would further increase and expand the use of the program as well as enhance the cooperative efforts among all the organizations involved. Through this bill, additional immunity will be provided to those persons who are in a position to report these deviances and thus will increase the number of reports by reducing the fear of potential malicious prosecution relating to right of privacy, defamation of character and breach of confidentiality issues.

We further feel this new law is in the best interest of the public and through it the amount of prescription-only drugs making their way to the streets and available for resale will be reduced. From a medical care perspective, the physician and the patient will also benefit since treatment information can be shared with all pharmacies such as when it is necessary that a particular patient's script be verified with the patient's treating physician each time the script is filled. These transmitted reports are for information only. If the pharmacists and treating physicians are satisfied that the person involved needs the medication for their medical condition, the prescription will be filled.

On behalf of the persons involved in carrying out this sharing of information program and knowing the problems and heartaches caused by the abuse and misuse of prescription-only drugs, we request your consideration of our comments and recommend passage of HB 2456. Thank you.

Sincerely yours,



Dwight Allen
Executive Director

DA:jn

HB2456

2-2

MEDICAL SOCIETY OF SEDGWICK COUNTY

1102 S. Hillside, Wichita, Kansas 67211

Dwight Allen
Executive Director

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CONFIDENTIAL PHARMACY INFORMATION REPORT

"In partnership for a crime-free community"

NOTICE OF CONFIDENTIAL COMMUNICATION

This communication is intended for the sole use of the individual to whom it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient, or an employee and/or agent for delivering this communication to the intended recipient, please note that dissemination, distribution or copying of this communication is strictly prohibited. If this communication was received in error, please notify the sender by telephone and return the fax communication to the office of the Medical Society of Sedgwick County at the mailing address listed above. This information is provided as a service to area pharmacists, physicians and dentists in the interest of public safety to prevent the illegal procurement and resale of prescription-only drugs. The Medical Society of Sedgwick County, in coordination with relevant law enforcement agencies and the medical community treats all information received under this program as confidential and anonymous, and all persons initiating or delivering such report shall be entitled to such privileges as provided by the Kansas Statutes Annotated unless otherwise ordered by a court of law.

TRANSMISSION

Date of Confidential Report to Medical Society: _____

Report made by Physician Pharmacist Dentist

Law Enforcement Official Name (optional) _____

Name/Alias of Person Involved: _____

Medications(s) Involved: _____

Time and date of incident: _____

Description: Approx. height: _____ weight: _____ hair color: _____

Race: _____ (M/F) Date of Birth: _____ glasses: _____ eye color: _____

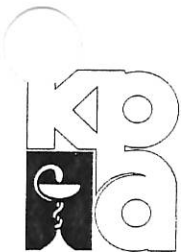
Tattoos. Scars. Etc: _____

Address and Telephone No. Given: _____

Other identifiers if known: vehicle description; accompanied by another person? Comments:

If you have additional information regarding this incident, please advise the Medical Society.

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KANSAS PHARMACISTS ASSOCIATION

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Robert R. (Bob) Williams, M.S., C.A.E.
Executive Director

TESTIMONY

House Health and Human Services Committee
March 5, 2001
House Bill 2456

My name is Bob Williams, I am the Executive Director of the Kansas Pharmacists Association, thank you for the opportunity to address the Committee regarding HB 2456.

It is our understanding that HB 2456 would provide health care providers immunity from liability if, in good faith, they provide to another health care provider or to a law enforcement agency information regarding an attempt by an individual to fraudulently obtain prescription only drugs.

Currently, when a pharmacist receives a "questionable" prescription from a patient, the pharmacist will first contact the prescriber to verify the authenticity of the prescription. If the prescriber indicates he/she did not write the prescription, the pharmacist will refuse to fill the prescription and likely contact other pharmacists in his or her community regarding the attempt to obtain prescription medication with a false prescription. This practice has been going on for decades.

The Pharmacy Act states that "the confidential communications between a licensed pharmacist and the pharmacist's patient and records of prescription orders filled by the pharmacist are placed on the same basis of confidentiality as provided by law for communications between a physician and the physician's patient..." Pharmacists have been operating under the assumption that a pharmacist/patient "confidential" relationship does not exist when the pharmacist is presented with a fraudulent prescription.

The State of Kansas has increasingly encouraged health care providers to be involved with the detection of drug diversion. This was most recently illustrated in 1998 with the passage of a law regarding the sale of drugs containing ephedrine, a product used in the manufacturing of methamphetamine. Drug diversion is a very real problem and it is to society's advantage to have the cooperation of health care providers. We believe there will be an advantage in passing HB 2456. It will codify the current state of the law when pharmacists are presented with a fraudulent prescription order.

We encourage the Committee to pass HB 2456. Thank you.



KANSAS DENTAL ASSOCIATION

Date: March 5, 2001

To: House Committee on Health and Human Services

From: Kevin J. Robertson, CAE
Executive Director

A handwritten signature in black ink, appearing to read 'Kevin', is written over the printed name of Kevin J. Robertson.

Re: **HB 2456 – Fraudulently Obtaining a Prescription Drug**

Chairman Boston and members of the Committee I am Kevin Robertson, executive director of the Kansas Dental Association (KDA) which represents about 80% of Kansas' practicing dentists. I am here today to testify in **support of HB 2456**.

Like physicians, dentists that have qualified for a DEA license have the authority to prescribe medication within their area of expertise depending on the category of license they have. Dentists too are often bombarded by fraudulent requests for prescription medication. Often these requests come in the middle of the night or on the weekends when the abuser thinks he/she can best take advantage of a foggy memory and lack of proper records to con the dentist into simply phoning in a prescription. Dentists are generally aware of these tactics and are on guard against them, yet, attempted abuses persist.

HB 2456 is a positive and necessary step to allow physicians, dentists, and pharmacists to report such suspected abusers without fear of liability for doing such. Without this ability, the abuser can simply make the rounds calling any healthcare provider without fear of recourse until he/she is finally able to con an unsuspecting or overly trusting provider into writing a prescription. The difficulty for dentists is that these abusers can be and often are patients.

Let me conclude by reading from the ethics handbook of the American College of Dentists regarding abuse of prescriptions by patients:

"The dentist must be aware of patients' legitimate needs for prescription drugs. The dentist should be suspicious when patient desires for prescription drugs materially conflict with professional recommendations. The dentist should confront patients when non-confrontation would imply tacit approval of drug abuse. In case of suspected drug abuse, the dentist has the responsibility to refer the patient for evaluation. There may be instances where the dentist must cooperate with appropriate government and law enforcement agencies to curb such abuse. Close communication may also be necessary with pharmacies and other practitioners to curb abuse. The dentist has an ethical obligation to avoid becoming an enabler."

Thank you for your time today. I would be happy to answer questions at this time.

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*Michael C. Helbert
Laura L. Misor*

March 5, 2001

TESTIMONY ON HOUSE BILL 2456

There are four basic privileges that have enjoyed universal respect since the birth of our country. Those privileges are the attorney-client privilege, the penitential privilege, the physician-patient privilege and the marital privilege. Consequently, we all should be cautious when we tread upon such time-honored principles. All of these privileges depend upon one thing. The complete belief and trust that any communications between a citizen and his or her doctor, lawyer, priest or minister, and his or her spouse will be treated as confidential and cannot be revealed to anyone.

We believe that this bill, while well meaning, has language that is troublesome. First it is a further intrusion into the physician-patient privilege. This is proposed as a means of stopping the prescription of drugs without the necessary medical foundation for their use. In other words, it is designed to stop doctors and patients from fraudulently prescribing or obtaining prescription medication. Obviously, this is not designed to prevent someone from obtaining antibiotics. It is designed to assist in the prosecution of doctors and patients who are prescribing or using pain killers and mind altering medications.

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If one looks at the language of this legislation, one will find that it would allow, and perhaps encourage some dangerous things for our society. First of all, many individuals who have a drug problem will consult with their family doctor for help in dealing with that problem. This legislation could drive a wedge between the doctor and his patient by authorizing not only the doctor, but any member of his staff to reveal this problem, without restriction, to any other health care provider or law enforcement. It could, therefore, impede and impair the sanctity of the physician-patient relationship. We should be encouraging doctors to assist their patients. We should not be placing a physician in a situation where he or she feels that she is a member of the DEA.

Secondly, the bill does not define what is misleading information. Pain is a subjective complaint. There is no test or diagnostic tool to measure the pain that a patient is experiencing. We are, therefore, allowing a subjective determination by a health care provider to essentially blacklist a person by reporting that the person is engaged in an attempt to fraudulently obtain medication, and this bill will grant someone immunity for making such a report.

Lets compare this to a situation that happens frequently in the business community. If a member of a credit bureau obtains a bad check from an individual, that business can report that to the credit bureau, and an alert is sent out to all member businesses. However, such a business does not have immunity for its acts. If the business has falsely accused someone of writing a bad check, there may be consequences for such an act. However, under this act, even if the information is false or wrong or they have the wrong person, the health care provider or their employee or agent who has disseminated, furnished, received or otherwise acted upon the information has complete immunity from any civil or criminal prosecution.

Imagine that your name is Terry Nelson, and another Terry Nelson is reported throughout the medical community as being involved in fraudulently obtaining prescription medication. Imagine also that you are a member of the same HMO or PPO network as the other Terry Nelson. Under this bill if you suffer lack of treatment, lack of medication, a complete invasion of your physician-patient relationship, and a violation of your right to privacy due to the negligence of some employee of a physician, you are without recourse in the judicial system. This would be true even if the actions of the people involved rose to the level that would constitute criminal conduct. In this age, where a person's privacy can be easily invaded, and identity theft is a growing problem, this bill would allow the most confidential information to be disseminated without accountability.

It is true that the bill contains a requirement of good faith, but it does not adequately describe the facts necessary to establish good faith. Instead, it creates a subjective standard that would allow each health care provider to make his or her individual decision concerning whether a person is obtaining or attempting to obtain prescription drugs fraudulently. The fundamental foundation of a society that is based on the rule of law is that no one will be subject to the whims or suspicions of any one person. This bill will create a situation where the mere request for anti-anxiety medication could result in a permanent black mark on your medical records; and it would do so with immunity for the person that put the black mark there.

We all know of situations where someone has been misdiagnosed. We all know of situations where someone has had to fight to obtain medical treatment from their HMO, health insurance carrier, or workers compensation carrier. What a weapon this bill will hand to those entities. If a physician member of an HMO believes that your pain is not as intense as you believe it is, that health care

provider can report your actions as “an attempt to fraudulently obtain prescription drugs.” If the health care provider thought your description of your anxiety, pain, or headache, was not as severe as you described, you could be reported as providing misleading information. This would then become part of your medical history, and could be circulated among other health care providers with impunity and immunity.

If we, as a society, are concerned about our right to privacy and the sanctity of our communications with our doctors, we cannot allow such information to be used, and not hold the person responsible for its publication accountable. We firmly believe that this is legislation that has the potential to cause irreparable harm to the medical consumers of this state. We urge you to stop this legislation.

Respectfully Submitted,


Michael C. Helbert



TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
455 N Main, Wichita, KS. 67202
Phone: 316.268.4351 Fax: 316.268.4519
Taylor_m@ci.wichita.ks.us

House Bill 2456 Prescription Drug Fraud

**Delivered March 5, 2001
House Health and Human Services Committee**

The City of Wichita and the Wichita Police Department support House Bill 2456.

Passage of this bill will provide law enforcement with an additional investigative avenue to pursue prescription drug fraud investigations that was previously unavailable due to doctor/patient privilege.

Allowing doctors to report prescription drug fraud without fear of civil or criminal liability will allow cases that were non-prosecutable due to doctor/patient privilege to now be prosecuted.

Passage of this bill is in the best interest of the community and of the Wichita Police Department in our efforts to curb the fraudulent use of prescriptions.

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Kansas Academy of Family Physicians

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March 5, 2001

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Executive Director



Representing the largest
 medical specialty group
 in Kansas

To: House Committee on Health & Human Services

From: Carolyn Gaughan, CAE, Executive Director

Re: HB 2456, relating to obtaining prescription-only drugs through fraudulent means;
 Concerning certain privileges and communications

Thank you for the chance to provide testimony in support of HB 2456. We support this bill and believe that, if adopted, it will have a positive effect for health care providers, law enforcement, and the general public. Patients who seek drugs through fraudulent means should not be afforded patient-physician confidentiality. By spelling out the health care providers' immunity from liability in such a case, this bill will clearly be a positive step in the war against drugs. We support it and urge your adoption.

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Statement
to the
House Health and Human Services Committee
Regarding House Bill 2456
By Charles L. Wheelen
March 5, 2001

The Kansas Association of Osteopathic Medicine supports HB2456 because it would protect physicians from criminal charges or civil liability when they make a good faith effort to prevent diversion of narcotics or other prescription-only drugs. Generally, we oppose any legislation that interferes with the privileged status of patient-physician communications, but this proposal suspends the privilege only for the limited purpose of preventing unlawful activity.

House Bill 2456 is a reiteration of established public policy but reinforces the immunities needed to assure that physicians are protected from frivolous lawsuits by persons who attempt to engage in criminal conduct. Current law in subsection (h) of K.S.A. 60-427 (rules of evidence) states that "Providing false information to a physician for the purpose of obtaining a prescription-only drug shall not be a confidential communication between physician and patient and no person shall have a privilege in any prosecution for obtaining a prescription-only drug by fraudulent means under K.S.A. 21-4214 and amendments thereto." Furthermore, the crime of obtaining a prescription-only drug by fraudulent means defined at K.S.A. 21-4214 includes "providing false information to a practitioner for the purpose of obtaining a prescription-only drug."

There are two key phrases which focus the limited purpose of HB2456. The first sentence in subsection (a) states that this measure applies only when a person attempts to obtain a prescription-only drug through fraudulent means. Another important phrase in subsection (a) clarifies that the immunities are provided only when the physician acts in good faith. We believe this bill creates a very narrowly defined exception to the patient's right to privacy with an overriding public interest in preventing criminal activity.

We respectfully request your favorable action on HB2456. Thank you for considering our comments.

HHS
3-5-01
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