

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE.

The meeting was called to order by Chairperson Jim Morrison at 1:31 p.m. on February 4 , 2003, in Room 243-N of the Capitol.

All members were present except Representatives Landwehr, Neighbor, Long, and Showalter

Committee staff present:

Bill Wolff, Legislative Research Department  
Renaee Jefferies, Revisor of Statutes' Office  
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Joy Wheeler, Executive Director, FirstGuard Health Plan  
Susan Linn, Executive Director, Kansas State Board of Pharmacy  
Bud Burke, Kansas Physical Therapy Association

Others attending: See Attached Guest List

The Chair welcomed Joy Wheeler, President, FirstGuard Health Plan, a managed care organization that contracts to provide health care services to eligible children under HealthWave." (Attachment 1) She said that FirstGuard provides a seamless network of health-care providers for members, whose numbers presently total 90,000.

She noted that FirstGuard also migrated to one PBM (Pharmacy Benefits Manager), Express Scripts, on July 1, 2002, which has participating retail pharmacies in 100 Kansas counties. Dental and mental health services are provided through Doral Dental and Mental Health Consortium as "carve-out vendors.

Ms. Wheeler itemized FirstGuard's personalized care: 24/7 consumer care assistance, health education newsletters, Guardian Angel pregnancy care, well-child assistance, and special-needs referrals.

Susan Linn, Executive Director, Kansas State Board of Pharmacy, requested the committee sponsor legislation to register pharmacy technicians. (Attachment 2) She said exponential increases in the filling of prescriptions has elevated the chances for errors; requiring pharmacy technicians to pass a competency exam and be registered with the Pharmacy Board will better serve the health and welfare of Kansas citizens. Noting the fiscal impact, she said a \$20 registration fee would produce \$48,000 for the Board, with expenses for implementing registration costing \$19,700. By proper motion and second, the Committee unanimously agreed to sponsor such legislation.

Bud Burke, representing the Physical Therapists Association, requested introduction of a bill to license physical therapists. (Attachment 3) He said the proposed draft will protect the term *physical therapist* and will clean up language associated with existing statutes. After a motion and second, the Committee voted unanimously to sponsor the proposed legislation.

## CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at on February 4, 2003, in Room 243-N of the Capitol.

Representative Sharp, noting that K.S.A. 65-1,214, which authorizes the Kansas Department of Health and Environment to protect Kansas children from lead poisoning, will sunset this year and deprive Kansas of federal funds; she requested a bill to renew the legislation without a sunset provision.

(Attachment 4) A motion was made, seconded and passed to sponsor such legislation.

The Chair noted sub-committee assignments (Attachment 5), with one change: moving Representative DeCastro to Sub-Committee B and making Representative Bethell Chair and Representative Morrison an *ex-officio* member of the sub-committee.

The Chair reminded members that Wednesday, February 5, was the final day to introduce committee bills. He listed bill assignments (Attachment 6), explaining that each team would become expert in all facets of their assigned legislation and would lead the hearing on that particular bill. He re-emphasized that sharing the leadership would more thoroughly address various issues presented by legislative bills, saying that briefing on a bill would occur at least a day before any hearing.

A motion was made, seconded, and passed to approve the minutes for the January 30, 2003 meeting.

The meeting was adjourned at 2:14 p.m. The next meeting is scheduled for Wednesday, February 5, 2003.



Testimony Presented Tuesday, February 4, 2003,  
to the House Health and Human Services Committee  
for the State of Kansas

Chairman and Members of the committee my name is Joy Wheeler. I am the President of FirstGuard Health Plan and am pleased to provide this testimony.

FirstGuard Health Plan is a seven year old managed health care company with an HMO license in both Missouri and Kansas. FirstGuard was established in 1995 by Swope Parkway Health Center when Missouri began to privatize its Medicaid health care system. Swope Parkway is a Federally Qualified Community Health Center serving the underserved of greater Kansas City for over thirty years. As of this date, FirstGuard serves a total of 138,000 members in its two companies. FirstGuard Health Plan in Missouri serves 48,000 members in a nine county service area.

FirstGuard Health Plan established a Kansas licensed HMO and took over management of Horizon Health Plan in May 1999. An asset purchase agreement was completed the following year. When FirstGuard took over Horizon Health Plan, membership in Title 19, (Primecare) was 22,400 and Title 21 (HealthWave) was 6,900 for a total of 29,300 members. Today, membership in the blended Title 19 and Title 21 product called HealthWave is at a total membership of 90,000; Title 19 has 60,000 members and Title 21 is at 30,000 members. FirstGuard's membership over three years has increased 168% in Title 19 and 334% in Title 21, for a total of 201%

Attachment 1  
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increase in the combined HealthWave program. This has been phenomenal growth and the program has been highly successful. I am particularly proud of the positive relationships that have been developed between FirstGuard Health Plan and committed parties including; Kansas Medical Society, the Governor and Legislators, SRS and the Kansas Department of Insurance.

I will now review major aspects of our Kansas operations.

FirstGuard has continued to pursue expansion of the provider network throughout the State of Kansas. Our primary goal continues to be a seamless network for Title 19 and Title 21 and we are almost there. Today, we have 1,352 Title 19 and 1,409 Title 21 Primary Care Physicians. Specialist physicians are 2,710 in Title 19 and 2,691 in Title 21. Hospitals are at 154 for Title 19 and 154 for Title 21.

We continue to diligently serve our provider network; fifty-seven meetings were conducted in forty-one locations during the last quarter of 2002. This is the fourth year we conducted these provider education meetings we refer to as "Roadshows". A total of 1165 practice managers, office managers, and physician office employees attended one of these meetings. We are pleased with the growing usage of our Web-site, which allows the providers to readily access helpful information. In many instances, this easy access prevents the need to make a telephone call to our office. Web-site log-ins have steadily increased and as of year-end 2002,

provider log-ins averaged nearly 14,000 per month (an increase of 17% in the last six months of the year). FirstGuard has continued to meet its claims payment service standard and pays paper claims within 24 days. Electronic claims are paid within 5 days, for an overall average of 21 days.

FirstGuard Health Plan conducted an extensive RFP process in the Spring 2002 to pursue one PBM (Pharmacy Benefits Manager) to serve all FirstGuard membership. This resulted in the transition of Kansas membership from Merck-Medco to Express Scripts. This transition occurred on July 1, 2002.

FirstGuard Health Plan has a participating retail pharmacy in all 100 Kansas counties that have a retail pharmacy. The other 5 counties in Kansas do not have a pharmacy. Some independent rural pharmacies have been able to negotiate higher than traditional reimbursement rates, if their exclusion would significantly impact member access, exceeding 20 miles one way. Currently, there are no significant issues regarding pharmacy access. Additionally, to our knowledge there are no major issues with access to services delivered by Doral Dental or the Mental Health Consortium, which are the carve-out vendors.

FirstGuard Health Plan continues to provide all new members with a welcome call. This call gives us an opportunity to determine that members have received their ID cards and packets and we review basic information on how the program works. During this call a



simple health assessment is conducted and any information gathered regarding a medical condition or pregnancy is forwarded to a case management nurse. We educate the member on how to reach us for assistance. FirstGuard has a Customer Care representative on call for 24-hour coverage seven days a week. Our Customer Care staff is provided tools to assist members and providers and is empowered to make decisions. When needed, this staff is also supported for medically related issues by a Care Management Nurse and by FirstGuard's Medical Director. We provide health-related education to our members via the health topic of the month. Additionally, a member newsletter is mailed twice each year. Customer Care representatives access an extensive network of transportation providers throughout the state to arrange transportation to and from providers and even for prescription pick-up.

FirstGuard's care management team coordinates members' medical and health care needs. Prior notification is required for a specific list of services. FirstGuard is committed to a care management model focusing on the appropriate management of chronic diseases, cancer, and pregnancy. High-risk pregnancy and low birth weight babies are a significant issue in the Healthwave population. The Guardian Angel program provides extensive oversight throughout the course of pregnancy. The EPSDT, well child, and immunization outreach program begins at birth with reminder letters sent to members and providers at all EPSDT periodicity points.

**Asthma is a major medical issue throughout the state and FirstGuard's Asthma Disease Management program provides members with a proactive, patient focused program utilizing clinical guidelines from the National Heart Lung Blood Institute. We continue to administer the Asthma Disease Management Program but will be modifying its quality initiative this year to increase use of inhaled steroids consistent with most recent clinical research data findings and national recommendations.**

**FirstGuard coordinates with the state in providing appropriate care to special needs kids when referrals to in-network specialists are required. There are occasions when care is arranged by our care management team for out-of-network, to include out of state providers. When necessary, FirstGuard utilizes PPO networks that are available through its reinsurance carrier. FirstGuard is working collaboratively with SRS and the KDHE on several quality and cost containment initiatives including the Preferred Drug Formulary, Special Needs Children Program and the Childhood Lead Program.**

**FirstGuard Health Plan has continued coverage of additional over the counter drugs when the States were required to reduce that benefit significantly. We believe continued access to many of these medications is important to avoid the cost of inappropriate and unnecessary ER visits for minor illnesses and conditions, particularly in children. Some examples include; cough, cold and**



fever medicines, vitamins including pre-natal, Claritin, and electrolyte replacement.

FirstGuard's patient satisfaction survey results for 2002 exceeded the national average. The results for HealthWave 19 are as follows and these numbers reflect the percentage of members who rated the Plan as excellent or very good: children population 78.7%, adult population 64% and Children with Special Needs population 76.2%. The results for HealthWave 21 are as follows: children population 79.8% and Children with Special Needs 79.2%. The satisfaction survey is conducted annually.

I am very pleased to represent FirstGuard Health Plan and provide this report to you. It is rewarding to look back and see how far we have come. There are no major operational challenges at this time but rather concern for the state budgets as the eligible population increases and health care cost trends continue to rise. I must express great appreciation for Kansas physicians and hospitals who continue to serve the HealthWave membership despite extremely low reimbursement rates. I commit to you that FirstGuard Health Plan will continue to work with you to meet the needs of the underserved.

Thank You.

I am happy to respond to any questions.

## **Executive Summary**

Registration of Pharmacy Technician  
House Health and Human Services

The Kansas State Board of Pharmacy strongly believes that to appropriately protect the citizens of Kansas, the Board of Pharmacy must regulate pharmacy technicians. This bill is necessary because under current Kansas law, the Board has no means to prevent technicians who are at risk of injuring the public from assisting in the practice of pharmacy.

With the explosion in the number of prescriptions being written and the shortage of available pharmacists, there is an ever-increasing effort to expand the role of pharmacy technicians. The National Association of Boards of Pharmacy, after careful study, has recommended that to adequately protect the public health, pharmacy technicians should be regulated. There are now 30 states, including Oklahoma, Missouri and Iowa, which require either licensure or registration of pharmacy technicians.

Pharmacy technicians are involved in a significant number of serious medication errors not always caught by the supervising pharmacist. There are also indications that pharmacy technicians are involved in a significant amount of drug diversion occurring in pharmacies in Kansas. Many of these diverted drugs make their way onto the streets in our state.

Kansas law indicates that pharmacy technician are not to exercise professional judgement and are to be supervised by licensed pharmacists. However, information we have collected shows that technicians do make judgments in performing pharmacy functions. These judgments can and do result in medication errors.

The six members of the Board of Pharmacy bring an independent and unbiased professional opinion that the failure to register pharmacy technicians poses a real and serious threat to the health and welfare of the citizens of Kansas. The Board would ask that you consider the fact that many states have already mandated pharmacy technician registration and that the Board has nothing to gain from seeking registration.

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## FISCAL NOTE

### PHARMACY TECHNICIAN BILL

The following fiscal note concerning the Pharmacy Technician Bill is respectfully submitted to the House Health and Human Service Committee. The Board of Pharmacy has approximately 3,000 individuals listed as pharmacy technicians. This bill would require each technician to pay \$20 for a registration fee, equaling \$60,000. The Board of Pharmacy would receive 80% of the total receipts, equaling \$48,000.

One time costs are divided as follows:

- New computer and printer - \$2,500
- Updating pharmacy database - \$2,000

On going costs are divided as follows:

- One part-time, non-FTE employee salary - \$12,500.
- Registration cards, printing and postage costs for registrations - \$1,500
- Newsletter printing and postage - \$1,200.

Total Cost to Board of Pharmacy                      \$19,700

By

**AN ACT concerning the state board of pharmacy; providing for registration of pharmacy technicians; amending K.S.A. 65-1642 and repealing the existing section.**

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

New Section 1. (a) It shall be unlawful for any person to function as a pharmacy technician in this state unless such person is registered with the board as a pharmacy technician. Except as otherwise provided in subsection (d), every applicant for registration as a pharmacy technician shall have passed an examination approved by the board. The board shall adopt rules and regulations establishing the criteria for the required examination and a passing score.

(b) All applications for registration shall be made on a form to be prescribed and furnished by the board. Each application for registration shall be accompanied by a license fee fixed by the board by rule and regulation of not to exceed \$50.

(c) The board shall take into consideration any felony conviction of an applicant, but such conviction shall not automatically operate as a bar to registration.

(d) All persons who are employed as a pharmacy technician in a Kansas pharmacy on the effective date of this act shall be entitled to continue performing the functions of a pharmacy technician until October 31, 2004, without registering pursuant to the requirements of this section and without passing the examination required by subsection (a). To perform the functions of a pharmacy technician after such date, such person shall have passed the examination referred to in subsection (a) and be registered by the board as a pharmacy technician.

(e) Each pharmacy technician registration issued by the board shall expire on October 31 of the year specified by the board. Each applicant for renewal of a pharmacy technician registration shall be made on a form prescribed and furnished by the board and shall be accompanied by a renewal fee fixed by the board by rule and regulation of not to exceed \$25. Except as otherwise provided in this subsection, the application for registration renewal, when accompanied by the renewal fee and received by the executive secretary of the board on or before the date of expiration of the registration, shall have the effect of temporarily renewing the applicant's registration until actual issuance or denial of the renewal registration.

If at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration, the board may by emergency order declare that the application for renewal shall not have the effect of temporarily renewing such applicant's registration. If the renewal fee is not paid by December 1 of the renewal year, the registration is void.

(f) (1) The board may deny an application for issuance or renewal of any registration as a pharmacy technician on any ground, which would authorize the board to take action against the license of a pharmacist under K.S.A. 65-1627, and amendments thereto.

(2) The board may require a physical or mental examination, or both, of a person applying for or registered as a pharmacy technician.

(3) The board may temporarily suspend or temporarily limit the registration of any pharmacy technician in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action under this section against the registrant and that the registrant's continuation of pharmacy technician functions would constitute an imminent danger to the public health and safety.

(4) Proceedings under this section shall be subject to the Kansas administrative procedure act.

(g) Every registered pharmacy technician, within 30 days of obtaining new employment, shall furnish the board's executive secretary notice of the name and address of the new employer.

(h) Each pharmacy shall at all times maintain a list of the names of pharmacy technicians employed by the pharmacy and shall post in a conspicuous location in the prescription area of the pharmacy the names of the pharmacy technicians currently on duty at the pharmacy, if any. A pharmacy technician shall work under the direct supervision and, control of a pharmacist. It shall be the responsibility of the supervising pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the board, and the supervising pharmacist shall be responsible for the acts and omissions of the pharmacy technician in the performance of the pharmacy

technician's duties. The ratio of pharmacy technicians to pharmacists in the prescription area of a pharmacy shall be fixed by rule and regulation the board, but until the board does so, shall not exceed two-to-one.

(i) The board shall adopt such rules and regulations as are necessary to ensure that pharmacy technicians are adequately trained as to the nature and scope of their lawful duties.

(j) The board may adopt rules and regulations as may be necessary to carry out the purposes and enforce the provisions of this act.

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

Sec. 2. K.S.A. 65-1642 is hereby amended to read as follows: 65-1642. (a) Each pharmacy shall be equipped with proper pharmaceutical utensils, in order that prescriptions can be properly filled and United States Pharmacopoeia and national formulary preparations properly compounded, and with proper sanitary appliances which shall be kept in a clean and orderly manner. The board shall prescribe the minimum of such professional and technical equipment which a pharmacy shall at all times possess.

~~(b) (1) Each pharmacy shall at all times maintain a list of the names of pharmacy technicians employed by the pharmacy and shall post in a conspicuous location in the prescription area of the pharmacy the name of the pharmacy technician currently on duty at the pharmacy, if any. A pharmacy technician shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the board, and the pharmacist who supervises a pharmacy technician shall be responsible for the acts and omissions of the pharmacy technician in the performance of the pharmacy technician's duties. The ratio of pharmacy technicians to pharmacists in the prescription area of a pharmacy shall not exceed a two-to-one ratio.~~

~~(2) The board shall adopt such rules and regulations as are necessary to ensure that pharmacy technicians are adequately trained as to the nature and scope of their lawful duties.~~

~~(e)~~ (b) Each pharmacy shall keep a suitable book or file which records every prescription order filled at the pharmacy and a medication profile record system as provided under subsection (d). The book or file of prescription orders shall be kept for a period of not less than five years. The book or file of prescription orders shall at all times be open to inspection by members of the board, the secretary of health and environment, the duly authorized agents or employees of such board or secretary and other proper authorities.



~~(c)~~ (c) (1) A medication profile record system shall be maintained in all pharmacies for persons for whom prescriptions are dispensed. The following information shall be recorded: (A) The name and address of the patient for whom the medication is intended; (B) the prescriber's name, the original date the prescription is dispensed and the number or designation identifying the prescription; (C) the name, strength and quantity of the drug dispensed and the name of the dispensing pharmacist; and (D) drug allergies and sensitivities.

(2) Upon receipt of a prescription order, the pharmacist shall examine the patient's medication profile record before dispensing the medication to determine the possibility of a harmful drug interaction or reaction to medication. Upon recognizing a potential harmful drug interaction or reaction to the medication, the pharmacist shall take appropriate action to avoid or minimize the problem which shall, if necessary, include consultation with the prescriber with documentation of actions taken on the prescription record.

(3) A medication profile record shall be maintained for a period of not less than five years from the date of the last entry in the record.

(4) All prescription drug orders communicated by way of electronic transmission shall conform to federal and state laws and the provisions of the board's rules and regulations.

~~(d)~~ (d) No registration shall be issued or continued for the conduct of a pharmacy until or unless the provisions of this section have been complied with.

Sec. 3. K.S.A. 65-1642 is hereby repealed.

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

February 3, 2003

Mr. Chairman:

On behalf of the Kansas Physical Therapy Association we are requesting the introduction of legislation that would accomplish the following;

- + change the procedure from REGISTRATION of Physical Therapists to LICENSURE. ( Similar to the changes made last year for Occupational Therapists ).
- + modernize the language defining the scope of practice. ( recommended by the Revisor)
- + provide for administrative changes as recommended by the Executive Director of the Kansas State Board of Healing Arts
- + additional "clean up" language in the act as recommended by the Revisor

These changes are intended to simply provide that Physical Therapists are Licensed and the term Physical Therapist and Physical Therapy are protected without impinging on the authority of any health care provider who is currently licensed to provide these techniques or interventions, they simply would not be able to hold themselves out to be Physical Therapists or be providing Physical Therapy.

We believe that the public will be protected by making these changes by ensuring that people who hold themselves out to be Physical Therapists are

in fact properly educated and trained to perform the service.

We do not believe that there is a cost to the public for these changes.

Respectively;

Bud Burke  
Representing the Kansas Physical Therapy Assn.

Attachment 3  
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## Request for Bill Introduction

This is a request to remove a sunset provision currently included in the residential childhood lead poisoning prevention act passed by the Kansas Legislature in the 1999 session.

### Background:

Provisions of the residential childhood lead poisoning prevention act are covered in K.S.A. 65-1,200 through 65-1,214. Enactment of these statutes was necessary to bring the state in line with federal requirements so that the Kansas Department of Health and Environment could receive federal funds that support activities aimed at preventing lead poisoning in children. This is achieved through efforts authorized in the statute, including the education of homeowners, remodeling professionals, and others about ways of preventing exposure to lead-based paint in residential settings.

The 1999 legislation was supported by organizations representing public health, landlords, and realtors.

Conferees on this bill will be able to provide information about the impact that the act has had in preventing new cases of residential lead poisoning, the funding that has become available to the state and to local communities, and about the number of homeowners and professionals who have been served through the program.

Repealing the sunset contained in K.S.A. 65-1,214 will allow KDHE to continue its efforts related to preventing lead poisoning in Kansas' children.

**65-1,214. Repeal of act.** ~~On July 1, 2004, the provisions of K.S.A. 65-1,200 to 65-1,214 inclusive, of this act are hereby repealed.~~

**History:** L. 1999, ch. 99, § 16; Apr. 22.

Attachment 4  
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# Health and Human Services Sub-Committees

## **Sub-Committee A**

- Peggy Long (Chair)
- Willa DeCastro
- Don Hill
- Brenda Landwehr
- Frank Miller
- Roger Reitz
- Scott Schwab
- Geraldine Flaharty
- Tom Holland
- Eber Phelps
- Judy Showalter

## **Sub-Committee B**

- Jim Morrison (Chair)
- Bob Bethell
- Mario Goico
- Cindy Neighbor
- Doug Patterson
- Stephanie Sharp
- Nancy Kirk
- Sue Storm
- Joshua Svaty
- Jerry Williams

Attachment 5  
HHS 2-4-03

HOUSE HEALTH AND HUMAN SERVICES COMMITTEEBill Assignments

Issue/Bill #	Introducer/Person Requesting	Legislator(s) Assigned	Date(s) of Hearing(s)
Radiologic Tech Licensure	Ron Hein	Peggy Long/Joshua Svaty	
Dental Hygienist off-site permit Temp License	Kevin Robertson/KDA Kevin Robertson/KDA	Judy Showalter /Scott Schwab Doug Patterson/Don Hill	
Insurance for clinical trials			
Licensure for Physical Therapists	Bud Burke/PT Association	Willa DeCastro /Stephanie Sharp	
Registration of Pharmacy Techs	Susan Linn, KSBP	Sue Storm/Don Hill	
Confidentiality Licensure mobility	Phyllis Gilmore/BSRB Phyllis Gilmore/BSRB	Doug Patterson/Nancy Kirk/Tom Holland Eber Phelps/Roger Reitz	
Broaden Qualif for Health Director KDHE	Representative Kirk	Nancy Kirk/Cindy Neighbor	
Increase social workers on BSRB	Representative Kirk	Nancy Kirk/Frank Miller	
Prohibit Adult Care inspection reports from use in lawsuits	Representative Kirk	Nancy Kirk/Mario Goico	
Creation of Kansas Health Commission	Representative Bethell	Bob Bethell/Roger Reitz	
HCR recognize school nurses as 1 <sup>st</sup> responders	Representative DeCastro	Willa DeCastro/Judy Showalter/Tom Holland	
Adult Care Licensing Adult Care Dispute Resolution	Representative Bethell Representative Bethell	Bob Bethell/Brenda Landwehr, Jerry Williams Bob Bethell/Sue Storm	
Commission for the Blind	Michael Byington	Peggy Long/Geraldine Flaharty	

Attachment 6  
HHS 2-4-03